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Friday
September 11, 1981

Highlights

45321 **Extension of the exercise of certain authorities under the Trading With the Enemy Act** Presidential memorandum

45486 **Loan Programs—Education** ED announces family contribution schedule for Guaranteed Student Loan Program. (Part II of this issue)

45368 **Education—Handicapped** DOD/Sec'y proposes regulations on education of handicapped children in Department of Defense dependents schools.

45329 **Credit Unions—All Savers Certificates** NCUA allows Federal credit unions to waive withdrawal penalties for transferring certain share certificates funds to "All Savers Certificates."

45365 **Credit Unions** NCUA consolidates and clarifies policy on availability of information.

45368 **Water Resources** WRC proposes to repeal certain regulations on water and related land resources planning.

45538 **Drugs** HHS/FDA seeks comments on ways to reduce its involvement in reviewing early phase clinical investigations. (Part IV of this issue)

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Highlights

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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.

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Federal Register
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Presidential Documents

Title 3—

The President

Memorandum of September 10, 1981

Memorandum for the Secretary of State
the Secretary of the Treasury

Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5 note), and a previous determination made by the President on September 8, 1980 (45 Fed. Reg. 59549 (1980)), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1981.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95–223, I extend for one year, until September 14, 1982, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 CFR Part 500;

(2) the Transaction Control Regulations, 31 CFR Part 505;

(3) the Cuban Assets Control Regulations, 31 CFR Part 515; and

(4) the Foreign Funds Control Regulations, 31 CFR Part 520.

This Determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, September 10, 1981

[FR Doc. 81-26738
Filed 9-10-81; 12:01 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 176
Friday, September 11, 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 Part 213

Excepted Service; Correction; Nepotism Provisions

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: The Office of Personnel Management is issuing a technical amendment to correct an error contained in its regulations on the Excepted Service which implement nepotism provisions to allow for the appointment of a handicapped son or daughter to a Schedule A position in the same agency where a parent is employed. This permits appointment in those cases where severely physically handicapped and mentally retarded persons have difficulties related to worksite adjustments and transportation to and from duty stations. This reflects the original amendment to 5 CFR 213.3102(b) that appeared as a final rule in the Federal Register of June 21, 1977 (42 FR 31456) and which was inadvertently changed in a subsequent amendment published in the Federal Register of November 20, 1979 (44 FR 66571).

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT:
Anice Nelson, 202/632-5687.
Office of Personnel Management.
Beverly McCain Jones,
Issuance System Manager.

PART 213—EXCEPTED SERVICE

Accordingly, the Office of Personnel Management is correcting 5 CFR Part 213 by revising § 213.3101(d)(4) to read as follows:

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is impracticable to examine.

* * * * *

(d) * * *

(4) Who are severely physically handicapped or mentally retarded when such appointees meet the criteria under Schedule A appointing authorities § 213.3102 (t) and (u), except that for the (u) eligibility no certification from a State rehabilitation or Veterans Administration counselor is required;

* * * * *

(5 U.S.C. 3301)

[FR Doc. 81-26562 Filed 9-10-81; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 322]

Lemons Grown in California and Arizona; Minimum Size Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation sets minimum size requirements for shipments of fresh California-Arizona lemons. Such action is designed to promote orderly marketing of suitable sizes of fresh California-Arizona lemons in the interest of producers and consumers.

DATES: Interim rule effective September 20, 1981, through December 5, 1981; comments which are received by October 13, 1981 will be considered prior to issuance of a final rule to become effective December 6, 1981, and continued in effect until modified, suspended, or terminated.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:
William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

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). This action is based upon the recommendations and information submitted by the Lemon Administrative Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

Shipments of lemons from the production area are now in progress, and such shipments are regulated by size through September 19, 1981, under Lemon Regulation 269 (45 FR 60403). This regulation which would be effective September 20, 1981, through December 5, 1981, would require shipments of lemons to be no smaller than 1.82 inches in diameter. The volume and size compositions of the lemon crop in California and Arizona is such that ample supplies of the more desirable sizes are available to satisfy the demand in domestic fresh markets. The committee estimates that approximately 2-3% of each season's crop is smaller than 1.82 inches in diameter. This regulation is designed to permit shipment of ample supplies of lemons of acceptable sizes, maturity, and juice content. Lemons which are smaller than 1.82 inches in diameter normally have negligible demand and sales opportunity, as they have relatively low juice yields. Additionally, such small fruit would be costly to prepare commercially for the market place. Lemons failing to meet this minimum size requirement could be shipped to fresh export markets, left on the trees to attain further growth, or utilized in processing. This regulation is consistent with the objectives of the act by promoting orderly marketing in the interest of producers and consumers.

It is proposed that the size regulation contained in the interim rule, effective for the period September 20, 1981, through December 5, 1981, would continue in effect from marketing season

to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Interested persons are invited to comment with regard to the interim rule and proposed final regulation. Heretofore, the size regulation for California-Arizona lemons was made effective for a single marketing season. The proposed change to issue a size regulation which would continue in effect from marketing season to marketing season reflects the fact that the size regulation has changed infrequently from season to season and it is believed unnecessary to issue them for only a single season. With the exception of a 4-month period in 1979, the current size requirement has been in effect for a number of years. In addition, the proposed action could result in a reduction in operational costs to the committee and the government. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification suspension, or termination of the size regulation on shipments of California-Arizona lemons would tend to effectuate the declared policy of the act.

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), and good cause exists for making these regulatory provisions effective as specified in that (1) shipment of the current crop of lemons is in progress and this regulation should be applicable to all shipments during the season; (2) the current size regulation will expire September 19, 1981; (3) the size regulation was recommended by the committee following discussion at a public meeting; (4) lemon handlers have been apprised of these requirements and the effective date; and (5) the requirements are the same as those currently in effect.

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

Therefore, a new § 910.622 is added to read as follows: (§ 910.622 expires December 5, 1981, and will not be published in the annual code of Federal Regulations).

§ 910.622 Lemon Regulation 322.

(a) During the period September 20, 1981, through December 5, 1981, no handler shall handle any lemons grown in District 1, District 2, or District 3 which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

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

Dated, September 8, 1981, to become effective September 20, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-26504 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 323]

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 13–19, 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 13, 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 8, 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 good.

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 record keeping) 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.

Section 910.623 is added as follows:

§ 910.623 Lemon Regulation 323.

The quantity of lemons grown in California and Arizona which may be handled during the period September 13, 1981, through September 19, 1981, is established at 231,373 cartons.

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

Dated: September 10, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-26740 Filed 9-10-81; 12:22 p.m.]

BILLING CODE 3410-02-M

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7 CFR Part 1002

Milk in the New York-New Jersey Marketing Area; Amendments to Classification and Accounting Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action approves the tentative amendments to the classification and accounting rules and regulations issued by the Market Administrator of the New York-New Jersey marketing order on August 14, 1981, after consideration of proposed changes at a public meeting held July 24, 1981. Amendment of the classification and accounting rules and regulations is necessary to make such regulations conform to order amendments effective September 1, 1981. Basically, the revision of the rules involve administrative application of the amendments to the tank truck service charge that handlers may negotiate with producers or their cooperatives with respect to farm-to-first plant hauling costs.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6273.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of § 1002.46 of the order, as amended, regulating the handling of milk in the New York-New Jersey marketing area (7 CFR Part 1002), the Market Administrator of said order on August 14, 1981, issued tentative amendments to the classification and accounting rules and regulations.

A copy of the stenographic record of the meeting called by the Market Administrator concerning such amendments to the rules and regulations and the tentative amendments to the rules and regulations were each forwarded by the Market Administrator to the Secretary. Upon consideration of such tentative amendments in the light of the stenographic record, said amendments to the classification and accounting rules and regulations are hereby approved.

It is hereby determined that it is unnecessary and impractical to defer the effective date of the amendments to the classification and accounting rules and regulations for 30 days after publication in the **Federal Register** in that:

(1) A copy of the tentative amendments was mailed on August 14, 1981, to all handlers operating pool plants and other interested parties, thus affording such persons a reasonable time to prepare for the effective date herein specified;

(2) Amendments to the marketing order, as amended, to which such amended rules and regulations apply were effective September 1, 1981; and

(3) The said amended rules and regulations are required by provisions of the order, as amended, to be effective on the first day of the month following their approval.

Accordingly, the said amendments to the classification and accounting rules and regulations shall be effective on and after October 1, 1981.

The tentative amendments issued by the Market Administrator and hereby approved are set forth below.

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

Effective date: October 1, 1981.

Signed at Washington, D.C., on September 4, 1981.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Tentative Amendment to Rules and Regulations

Pursuant to the provisions of § 1002.46 of the order, as amended (7 CFR Part 1002), regulating the handling of milk in the New York–New Jersey marketing area, and applicable law, a public meeting was held at New York, New York, on July 24, 1981 to consider proposals for the amendment of the classification and accounting rules and regulations heretofore issued (7 CFR 1002.100 *et seq.*) pursuant to said order. Notice of said public meeting was issued on July 17, 1981.

After due consideration of the data, views and arguments presented by interested persons at such public meeting and in a brief following such meeting, the classification and accounting rules and regulations heretofore amended are hereby further amended, subject to the approval of the Secretary of Agriculture, to read as follows:

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

1. Add the following § 1002.223:

§ 1002.223 Method of accounting for fluid milk products in transit at the end of a month from a pool bulk tank unit to any plant.

All fluid milk products transferred from a pool bulk tank unit but not received until the following month at the transferee plant shall be considered in transit and shall be accounted for in the following manner:

(a) At the transferor bulk tank unit, transfers which are in transit shall be included in the disposition in the month in which shipped.

(b) At the transferee plant, tranfers which are in transit shall be considered to have been received in the same month as shipped and shall be included in the closing inventory thereat.

(c) At the transferee plant, transfers which were in transit and were included in the closing inventory pursuant to paragraph (b) of this section shall be included in the following month's opening inventory.

2. Add the following §§ 1002.250–1002.253:

Method of Determining Maximum Allowable Tank Truck Service Charges

Sec.

1002.250 Authorization for hauling deductions.
1002.251 Reports by handlers of the claimed basis for producer hauling deductions.
1002.252 Determination of maximum allowable tank truck service charge deductions.
1002.253 Verification of deductions by the handler for tank truck service charges.

Method of Determining Maximum Allowable Tank Truck Service Charges

§ 1002.250 Authorization for hauling deductions.

An authorization, properly signed before its effective date, will be necessary for any tank truck service charge deduction to be allowed pursuant to the provisions of § 1002.80(a)(3). For producers who are members of a cooperative, the authorization must be obtained from the cooperative involved. Each authorization must contain the following:

(a) The handler's name.

(b) The basis for determining the deduction from the producer payment. If the resulting per hundredweight charge

will vary among producers on the bulk tank unit, an explanation of the basis for determining the deduction for producers on the unit must be included.

(c) A statement that any deduction is limited by the orders to not more than the actual cost of farm-to-plant hauling for the bulk tank unit minus the transportation credit of 15 cents per hundredweight and minus any increase in the class location value between the bulk tank unit and plant of first receipt.

(d) If changes in the basis for determining deductions are to take effect after advance notice without signing of new authorizations, a statement must so indicate. (Without this statement, any change in the basis for determining deductions will require a new authorization.)

(e) The date when the authorization becomes effective. (First pickup.)

(f) An authorized signature and the date signed.

§ 1002.251 Reports by handlers of the claimed basis for producer hauling deductions.

For each bulk tank unit for which deductions are to be made from producer payments for tank truck service charges in accordance with § 1002.80(a)(3), the handler shall report the following to the market administrator:

(a) By the 15th day of the month in which these regulations become effective, an itemized listing of estimated costs incurred in the transportation of milk from the farm(s) to plant(s) of first receipt as proposed to be used as the basis for the calculation of deductions from payments to producers and for which the handler is prepared to show how such costs are to be determined and to maintain appropriate records to substantiate costs as listed.

(b) On or before the last day of each month for milk delivered in the preceding month:

(1) An itemized listing of actual costs incurred in the transportation of producer milk from the farm(s) to plant(s) of first receipt claimed as the basis for deductions from payments to producers as shown on the producer payroll submitted to the market administrator.

(2) The applicable rate basis used for calculation of deductions made from payments to producers.

§ 1002.252 Determination of maximum allowable tank truck service charge deductions.

Total deductions by a handler for tank truck service charges from all producers on a bulk tank unit in accordance with § 1002.80(a)(3) may not exceed the amount calculated as follows:

(a) Actual costs incurred by the handler in transporting the milk from the farm(s) to the point where either (1) or (2) takes place:

(1) It is received at a plant as defined in § 1002.8: *Provided*, That milk reloaded from one tank truck to another will not be considered as so received if it is reloaded at a facility that:

(i) Contains no functional equipment for stationary storage, separation, or processing other than necessary to cool and pump milk from one tank truck to another; and

(ii) Is separate from the premises of any plant as defined in § 1002.8.

(2) It is commingled with the milk of another bulk tank unit (by either combining of milk or use of a common reload facility) during a given month, unless classification at each plant destination is passed back in the same proportions to each of the commingled units.

(b) Minus:

(1) The total value of the transportation credit received by the handler pursuant to § 1002.55.

(2) The total of the amounts that the value in paragraph (b)(2) (ii) of this section exceeds the value in paragraph (b)(2) (i) of this section for the milk transferred to each plant from the bulk tank unit:

(i) The class use value of the milk at the location of the bulk tank unit pursuant to § 1002.51(d);

(ii) The class use value of the milk at the location of the plant where the milk is first received, based on the mileage zone for the plant as determined by the market administrator.

§ 1002.253 Verification of deductions by the handler for tank truck service charges.

All costs claimed by the handler in the reports filed in accordance with § 1002.251 as the basis for deductions from the producer for tank truck service charges are subject to audit under the following guidelines:

(a) Costs not directly related to the transportation of milk from the farm to first plant of receipt are not to be included.

(b) Costs for items utilized in a given month are to be charged to that month.

(c) Costs for items having a useful life of more than one month such as depreciation, licenses and insurance and certain repair and maintenance items are to be allocated over an annual or other reasonable period.

(d) Costs based solely on bills from a hauling company in which handler has an ownership interest are not to be included. For inclusion, such costs must be verifiable on the same basis as costs incurred directly by the handler.

(e) Deductions in excess of the maximum allowable hauling deduction in an amount greater than 5 cents per hundredweight are to be reimbursed to the producer by separate check.

§ 1002.261 [Removed]

3. Remove § 1002.261.

Signed at New York, New York this 14th day of August, 1981.

Thomas A. Wilson,

Market Administrator.

[FR Doc. 81-26674 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service[1]

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Grapefruit Juice[2]

Correction

In FR Doc. 81-24046 appearing on page 41759 in the issue of Tuesday, August 18, 1981, make the following corrections to the tables in § 2852.1228:

(1) In Tables I, II, III, and V, the portions of each table labeled "Sweetened" and "Unsweetened" should have been aligned under the captions for "grade A" and "grade B".

(2) In Tables IV and V, under "Quality", in each entry for "Reconstitution", "Reconstitutes properly" should be inserted under grade A (as well as grade B).

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Foreign Exchange Visitor Eligibility for Waiver of Foreign Residence Requirement

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: Certain foreign exchange visitors are required, under the Immigration and Nationality Act of 1952,

[1] The Commodity Services Program * * *.

[2] Compliance with the provisions * * *.

to reside in their country of nationality or last foreign residence for a two year period following their departure from the United States before becoming eligible to acquire lawful permanent resident status or status as a temporary worker or employee in an H or L visa classification. A waiver of this foreign residence requirement under certain circumstances is also provided for in the Act. Congress has transferred the Secretary of State's responsibilities concerning the foreign residence requirement and waiver to the Director of the International Communication Agency. This rule updates the regulations to reflect this transfer. The rule also clarifies Service policy regarding foreign residence waivers for physician exchange visitors who commenced programs of graduate medical education and training prior to January 10, 1977, who temporarily departed the United States, and who then reentered on or after that date to resume their graduate programs.

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536 Telephone: (202) 633–3048.

For Specific Information: Thomas Simmons, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington , D.C. 20536 Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: Section 212(e) of the Immigration and Nationality Act of 1952, 8 U.S.C. 1182(e), provides that an alien admitted to the United States as an exchange visitor (J visa classification) or acquiring that status after admission, is required to reside for an aggregate of two years in his/her country of nationality or of last foreign residence following his/her departure from the United States if any of the following conditions existed: (1) the alien participated in an exchange program financed in whole or in part, directly or indirectly, by a United States government agency or by the government of the country of his/her nationality or last residence; (2) the alien's training and skills are clearly required in his/her country of nationality or last foreign residence; or (3) the alien was admitted to the United States on or after January 10, 1977 to receive graduate medical education or training or acquired exchange visitor status on or after that date for the same purpose. The exchange visitor subject to this requirement in not eligible to obtain status as a lawful permanent resident or to acquire status as a temporary worker under subparagraphs (H) and (L) of section 101(a)(15) of the Immigration and Nationality Act of 1952, 8 U.S.C. 1101(a)(15), until he/she has complied with the requirement.

A waiver of the foreign residence requirement may be granted to the exchange visitor whose compliance with the requirement would subject him/her to persecution based upon race, religion or political opinion or cause his/her United States citizen or lawful permanent resident alien spouse or child to experience exceptional hardship. A waiver may also be granted if doing so is determined to be in the official interest of an agency of the United States government, and if the government of the alien's nationality or last foreign residence sends a statement of no objection. However, Pub. L. 94–484, 601 (c) and (f), 90 Stat. 2300, effective January 10, 1977, amended section 212(e) of the Immigration and Nationality Act of 1952, 8 U.S.C. 1182(e), making waivers of the two year residence requirement on the basis of the no objection statement from the government of the alien's country of nationality or last foreign residence unavailable to those alien physicians admitted on or after January 10, 1977, as exchange visitors to receive graduate medical education or training or acquiring this status on or after that date.

The former 8 CFR 212.7(c) provided that the graduate medical trainee admitted on or after January 10, 1977, could not be granted a waiver of the foreign residence requirement based upon a statement of no objection from the government of the trainee's country of nationality or last foreign residence. The regulation appeared to make the no objection waiver unavailable to the foreign medical graduate who commenced a program of graduate medical education and training prior to January 10, 1977, and who temporarily departed the United States, reentering on or after January 10, 1977, to resume the same program. This rule amends 8 CFR 212.7(c) to clarify Service policy that the no objection waiver is available to physician exchange visitors who commenced a program prior to January 10, 1977, who temporarily departed from the United States, and who reentered on or after January 10, 1977. Section 212.7(c) is amended to conform with section 212(e) of the Act, amended by Pub. L. 94–484, and with 22 CFR 514.13(a)(9)(v) which provides that alien physicians who were in training programs prior to January 10, 1977, and who are continuing to pursue the same program objective, are still eligible to be considered for a waiver on the basis of a "no-objection" statement.

Section 212(e) of the Act provides that the Attorney General may grant a waiver of the two year residence requirement when the Secretary of State so recommends. In addition, this section authorizes the Secretary of State to publish a list of those countries requiring the services of persons in particular fields of specialized knowledge or skill to enable American Consulate Officers or Immigration Officers to determine if an exchange visitor is subject to the foreign residence requirement. Section 7(a)(8) of the Reorganization Plan No. 2 of 1977, 5 U.S.C. Appendix II, transferred the Secretary of State's functions under 212(e) of the Act to the Director of the International Communication Agency. This rule amends 8 CFR 212.7(c) to reflect this transfer of functions.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule amends the regulations to conform with statute, clarifies existing Service policy, and improves comprehensibility.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities, nor is it a major rule as defined in E.O. 12291 because the rule is less restrictive than the former rule and provides a greater benefit to the public.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

In § 212.7, paragraph (c) is revised to read as follows:

§ 212.7 Waiver of certain grounds of excludability

* * * * *

(c) *Section 212(e).* (1) An alien who was admitted to the United States as an exchange visitor, or who acquired that status after admission, is subject to the foreign residence requirement of section 212(e) of the Act if his or her participation in an exchange program was financed in whole or in part, directly or indirectly, by a United States government agency or by the government of the country of his or her nationality or last foreign residence.

(2) An alien is also subject to the foreign residence requirement of section 212(e) of the Act if at the time of admission to the United States as an

exchange visitor or at the time of acquisition of exchange visitor status after admission to the United States, the alien was a national or lawful permanent resident of a country which the Director of the International Communication Agency had designated, through public notice in the **Federal Register**, as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was to engage in his or her exchange visitor program.

(3) An alien is also subject to the foreign residence requirement of section 212(e) of the Act if he or she was admitted to the United States as an exchange visitor on or after January 10, 1977 to receive graduate medical education or training, or following admission, acquired such status on or after that date for that purpose. However, an exchange visitor already participating in an exchange program of graduate medical education or training as of January 9, 1977 who was not then subject to the foreign residence requirement of section 212(e) and who proceeds or has proceeded abroad temporarily and is returning to the United States to participate in the same program, continues to be exempt from the foreign residence requirement.

(4) A spouse or child admitted to the United States or accorded status under section 101(a)(15)(J) of the act to accompany or follow to join an exchange visitor who is subject to the foreign residence requirement of section 212(e) of the Act is also subject to that requirement.

(5) An alien who is subject to the foreign residence requirement and who believes that compliance therewith would impose exceptional hardship upon his/her spouse or child who is a citizen of the United States or a lawful permanent resident alien, or that he or she cannot return to the country of his or her nationality or last residence because he or she will be subject to persecution on account of race, religion, or political opinion, may apply for a waiver on Form I-612. The alien's spouse and minor children, if also subject to the foreign residence requirement, may be included in the application, provided the spouse has not been a participant in an exchange program.

(6) Each application based upon a claim to exceptional hardship must be accompanied by the certificate of marriage between the applicant and his or her spouse and proof of legal termination of all previous marriages of the applicant and spouse; the birth certificate of any child who is a United States citizen or lawful permanent resident alien, if the application is based upon a claim of exceptional hardship to a child, and evidence of the United States citizenship of the applicant's spouse or child, when the application is based upon a claim of exceptional hardship to a spouse or child who is a citizen of the United States.

(7) Evidence of United States citizenship and of status as a lawful permanent resident shall be in the form provided in Part 204 of this chapter. An application based upon exceptional hardship shall be supported by a statement, dated and signed by the applicant, giving a detailed explanation of the basis for his or her belief that his or her compliance with the foreign residence requirement of section 212(e) of the Act, as amended, would impose exceptional hardship upon his or her spouse or child who is a citizen of the United States or a lawful permanent resident thereof. The statement shall include all pertinent information concerning the incomes and savings of the applicant and spouse. If exceptional hardship is claimed upon medical grounds, the applicant shall submit a medical certificate from a qualified physician setting forth in terms understandable to a layman the nature and effect of the illness and prognosis as to the period of time the spouse or child will require care or treatment.

(8) An application based upon the applicant's belief that he or she cannot return to the country of his or her nationality or last residence because the applicant would be subject to persecution on account of race, religion, or political opinion, must be supported by a statement, dated and signed by the applicant, setting forth in detail why the applicant believes he or she would be subject to persecution.

(9) The applicant and his or her spouse may be interviewed by an immigration officer in connection with the application and consultation may be had with the Director, International Communication Agency and the sponsor of any exchange program in which the applicant has been a participant.

(10) The applicant shall be notified of the decision, and if the application is denied, of the reasons therefor and of the right of appeal in accordance with the provisions of Part 103 of this chapter. However, no appeal shall lie from the denial of an application for lack of a favorable recommendation from the Secretary of State. When an interested United States Government agency requests a waiver of the two-year foreign-residence requirement and the Director, International Communication Agency had made a favorable recommendation, the interested agency shall be notified of the decision on its request and, if the request is denied, of the reasons thereof, and of the right of appeal. If the foreign country of the alien's nationality or last residence has furnished statement in writing that it has no objection to his/her being granted a waiver of the foreign residence requirement and the Director, International Communication Agency has made a favorable recommendation, the Director shall be notified of the decision and, if the foreign residence requirement is not waived, of the reasons therefor and of the foregoing right of appeal. However, this "no objection" provision is not applicable to the exchange visitor admitted to the United States on or after January 10, 1977 to receive graduate medical education or training, or who acquired such status on or after that date for such purpose; except that the alien who commenced a program before January 10, 1977 and who was readmitted to the United States on or after that date to continue participation in the same program, is eligible for the "no objection" waiver.

* * * * *

(Secs. 103, 101(a)(15)(J), 212(e); 8 U.S.C. 1103, 1101(a)(15)(J), 1182(e))

Dated: August 26, 1981.

Doris M. Meissner,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-26406 Filed 9-10-81; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 212

Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Consent To Reapply for Admission

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule makes a technical change regarding the proper officials with whom excluded or deported aliens may file applications for waivers of exclusion and/or permission to apply for readmission into the United States. The change is necessary to eliminate the uncertainty which existed about where to file the applications in some instances. Aliens who wish to file applications for waivers of exclusion and for readmission are now provided with explicit guidance.

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization

Service, 425 I Street, N.W., Washington, D.C. 20536 Telephone: (202) 633-3048;

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536 Telephone: (202) 633-3946.

SUPPLEMENTARY INFORMATION: The technical change to paragraph (c) of § 212.2 of 8 CFR now makes the language explicit that the American consul who has jurisdiction over the alien's *place of residence* is the proper official with whom the alien must file concurrent applications for waiver of grounds of excludability (Form I-601) and for permission to reapply for admission (Form I-212). The former language in the regulations did not explicitly identify the particular consul with whom the applications were to be filed by an alien outside the United States.

Similarly, paragraph (f) of § 212.2 of 8 CFR is amended to provide that the district director, in whose district the alien *presently resides*, shall accept and adjudicate an alien's application for permission to reapply for admission (Form I-212). Thus, an alien who is physically present in the United States but who is ineligible to apply for the benefit of adjustment of status to lawful permanent resident, is required to file his/her application for permission to reapply for admission with the Service district director who has jurisdiction over the alien's *current residence*. The district director will adjudicate the application. Previously, the regulation provided that if the alien's Service file was in another Service district office, the application would be forwarded to that office for adjudication even though the alien no longer resided there.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely eliminates ambiguous language in the former regulation.

In accordance with 5 U.S.C. 605(b), this rule will not have a significant economic impact on a substantial number of small entities nor is it a major rule as defined in E.O. 12291 because it makes only a technical change to eliminate a former ambiguity.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

In § 212.2, paragraphs (c) and (f) are revised to read as follows:

§ 212.2 Consent to reapply for admission after deportation, removal or departure at Government expense.

* * * * *

(c) *Applicant for immigrant visa.* Any applicant for an immigrant visa who is not physically present in the United States, and who is applying for permission to reapply, shall file Form I-212 with the district director having jurisdiction over the place where the deportation or removal proceedings were held. If Form I-212 is filed in conjunction with a request for a waiver, Form I-601, under section 212 (g), (h), or (i) of the Act, both applications must be filed simultaneously with the American consul having jurisdiction over the alien's place of residence. The consul shall forward the applications to the appropriate Service officer abroad who has jurisdiction over the area within which the consul is located.

* * * * *

(f) *Other applicants.* Any applicant for permission to reapply for admission under circumstances other than those described in paragraphs (a), (b), (c), (d), or (e) of this section shall file Form I-212 with the district director having jurisdiction over the place where the deportation or removal proceedings were held, or with the district director who exercised or is exercising jurisdiction over the most recent proceeding relating to the applicant. If the applicant is physically present in the United States but is ineligible to apply for adjustment of status, the application must be filed with the district director having jurisdiction over the alien's place of residence.

* * * * *

(Secs. 103 and 212; 8 U.S.C. 1103 and 1182.)

Dated: August 26, 1981.

Doris M. Meissner,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-26495 Filed 9-10-81; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions; Share, Share Draft and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: On September 4, 1981, the National Credit Union Administration published a final rule (46 FR 44422) amending Part 701.35 of the NCUA Rules and Regulations in order to facilitate the issuance of All Savers Certificates (originating from the Economic Recovery Tax Act of 1981) by Federal credit unions. The amendment permitted a waiver of the mandatory early withdrawal penalty imposed on share certificates for *all* share certificates held by a member, if the funds were transferred into an All Savers Certificate. On September 3, 1981, the Department of the Treasury, Internal Revenue Service issued Rev. Ruling 81-218 addressing the tax consequences of certain activity related to the All Savers Certificate which adversely affects the recent amendment to Part 701. In order to align NCUA's regulation with Rev. Ruling 81-218, a further amendment is needed.

DATES: Effective date October 1, 1981.

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: The September 4, 1981, amendment to Part 701 adding § 701.35(h)(5) stated, in part, that:

> 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 subsection (e)(2).

This provision significantly broadened Federal credit union authority existing under § 701.35(d)(3)(ii) which permits an amendment (or "rollover" to another certificate) of a share certificate that does not result in an increase in the dividend rate or a reduction in the qualifying period (or remaining maturity). For example, pursuant to the September 4, 1981, amendment a Federal credit union, at its discretion, *could* allow a member to roll over his/her money held in a 3 year certificate (assume a remaining maturity of 2 years) into an All Savers Certificate ("ASC") even though the maturity on the ASC is only 1 year. In this example it is also assumed that the dividend rate on the 3 year certificate is more than the rate on the ASC. Without the September 4 amendment the roll over would not have been permitted unless an early withdrawal penalty was imposed because the maturity remaining (2 years)

exceeded the maturity (1 year) of the ASC.

While NCUA intended to deregulate, because of Rev. Ruling 81-218, holding that the tax exclusion would be lost where a penalty free rollover from a particular type of certificate is permitted *only* into an ASC (which would have been the case in the above example), it is necessary to modify that amendment.

Specifically, the IRS has indicated that where the purchase of an All Savers' Certificate entitles the purchaser to benefits not available to a non-purchaser, purchasers are receiving an amount [interest or dividends] in excess of that permitted in the law. Therefore, in those situations where the penalty free transfer is restricted to ASC's, the ASC would *not qualify for the exclusion.* To remedy this problem, NCUA is amending its regulation to essentially resort to its old rule (which is consistent with that of the other financial regulatory agencies): Penalty free shifting is permitted only when such action would neither shorten the maturity nor increase the dividend rate paid on the funds. Further, to ensure that members shifting into ASC's do not lose their tax exclusion, the rule requires that if penalty free shifting is permitted into ASC's, it must also be permitted into any other certificate offered by the Federal credit union that has a lower or equal rate and a longer or equal maturity to the existing certificate.

The NCUA Board has determined that notice and public comment on this rule are impracticable and not in the public interest. The Board has also determined, for similar reasons, not to provide a 30 day delayed effective date.

The change will increase the management flexibility and competitive positions of small credit unions, therefore a regulatory flexibility analysis is not required.

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

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

Dated: September 8, 1981.

Rosemary Brady,

Secretary, NCUA Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. Section 701.35(h)(5) is revised to read as follows:

§ 701.35 Share, share draft and share certificate accounts.

(h) * * *

(5) Notwithstanding paragraph (2) above, 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), *Provided:* (i) the maturity remaining on the share certificates from which the funds are to be transferred is equal to or less than 1 year and has a specified dividend rate equal to or greater than the rate specified in this paragraph and, (ii) the waiver is granted for transfers into any other share certificate account with maturities equal to or greater than the certificate from which the funds are to be withdrawn and have rates which are equal to or less than such certificates.

(12 U.S.C. 1757(6), 1766(9))

[FR Doc. 81-26553 Filed 9-10-81; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Part 720

Description of Office, Disclosure of Official Records; Availability of Information, Promulgation of Regulations

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This amends NCUA's regulation describing its organizational structure to reflect the realignment of NCUA's central office, in particular the abolition of the Office of the Comptroller and the establishment of the Office of the Insurance Fund. The rule also updates the descriptions of various NCUA offices to reflect internal changes.

EFFECTIVE DATE: September 11, 1981.

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

FOR FURTHER INFORMATION CONTACT: Robert S. Monheit, Senior Attorney, or Anne K. Scully, Attorney-Advisor, at the above address. Telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION:

I. Central Office Reorganization

A. Office of the Comptroller

On March 26, 1981, the NCUA Board approved the realignment of the Agency's central office functions. The Office of the Comptroller was abolished. The Office of the Comptroller was responsible for the financial management activities of the Administration. This included preparation and control of financial plans, fiscal accounting and budget, supervision of the National Credit Union Share Insurance Fund (NCUSIF) and its related loan and liquidation activities. The Office had contained the Divisions of Financial Management (which handled fiscal matters), Acquired Assets (which managed the Administration's liquidation activities), Information Systems (which managed the provision of data processing services to the Administration), and Budget and Planning. (The Divisions of Budget and Planning and Information Systems previously had been transferred from the Office of the Comptroller to the Board and to the Office of Administration respectively, on October 5, 1980.) The functions and duties of the Office of the Comptroller have been transferred to two other offices within the agency.

B. Office of the Insurance Fund

The Office of the Insurance Fund will administer the National Credit Union Share Insurance Fund (NCUSIF). The Fund was authorized by Pub. L. 91-648 (October 19, 1970). It was established to provide a program of insurance for member accounts, in Federal credit unions and appropriate state credit unions, in the event of insolvency and liquidation. The NCUSIF also provides assistance to federally insured credit unions in accordance with section 208 of the Federal Credit Union Act (12 U.S.C. 1788). In addition, the Office of the Insurance Fund will supervise all liquidation activities relating to the disposition of assets and liabilities of credit unions.

The Director of the Office of the Insurance Fund is to be assisted by a Deputy Director, and a Director of the Division of Liquidations. These changes

are reflected by replacing the description of the Office of the Comptroller, in § 720.2(b)(7), with a description of the Office of the Insurance Fund.

C. Office of Administration

As a further result of the central office realignment, the NCUA Board has shifted the functions and duties of the Division of Financial Management (previously within the Office of the Comptroller) to the Office of Administration. That Division will be combined with the contracting and purchasing functions (previously within the Division of Procurement) to become the newly established Division of Financial Operations.

The Division of Personnel and the Division of Training and Career Development have been joined to become the Division of Personnel and Training. The Division of Printing, Records and Facilities Management and the remaining portions of the Division of Procurement have been merged to form the Division of Administrative Services. The Office of Administration also includes the Divisions of Management Analysis and Information Systems, the Equal Employment Opportunity staff and the Freedom of Information Officer. These changes are reflected in revisions to § 720.2(b)(4).

II. Terminology Changes

Part 720 is being amended to change the terms "Assistant Director" of NCUA's respective office divisions to "Director of the Division", as appropriate.

III. Other Internal Changes

Section 720.2(b) has been amended to update the descriptions of the various NCUA offices and to reflect the reorganization of the central office. The Office of Examination and Insurance has been restructured by revising the previously existing divisions into the Divisions of Supervisory Actions, Program Development, Supervisory Policy and Evaluation, Corporate Structure and Insurance, and Community Development, which is reflected in the amendment to § 720.2(b)(5). The description of the Office of Policy Analysis, in § 720.2(b)(8) is amended to reflect the separation of responsibilities into the Division of Statistics and the Division of Regulatory Policy and Research. The Division of Complaint Handling and Unfair Practices in the Office of Consumer Affairs has been renamed the Division of Consumer Policy, as described in the revised § 720.2(b)(9). Section 720.2(c)(1) is revised to reflect the new addresses of the Region II and VI offices. The regional offices also have been restructured by reorganizing the previously existing branches into the Branches of Supervision and Examination, Consumer Affairs, Liquidations, and Credit Union Structure, as reflected in the amendment to § 720.2(c)(2). Finally, the description of the regional offices is revised to delineate the division of examiners into financial and consumer examiners and to reflect their respective chains of command.

Section 720.2(d) (3)–(7), describing the duties and responsibilities of the Central Liquidity Facility's (CLF) corporate officers, were originally published on January 2, 1980 (45 FR 17). The original descriptions of the officers were elaborate to provide the general public with specific information and detail regarding the new government corporation. However, these sections are no longer necessary because of the length of time the CLF has been in existence and the increased public knowledge about the institution. Therefore, it is proposed that § 720.2(d) (3)–(7) be deleted.

IV. Failure to Solicit Public Comment

NCUA has not solicited public comments on this regulation because it pertains to matters of agency organization, procedure and practice, and is exempt from the notice and comment requirements of the Administrative Procedures Act under 5 U.S.C. 553(b)(A), and from NCUA rules requiring public participation in rulemaking under 12 CFR 720.8(b), and IRPS 81–4.

By the National Credit Union Administration Board, 13th day of August, 1981.

Beatrix D. Fields,

Acting Secretary of the NCUA Board.

Accordingly, 12 CFR Part 720 is hereby amended as set forth below.

PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS—AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

In § 720.2, paragraphs (b) (4), (5), (7), (8), (9), (c)(1), (c)(2) and (d)(3) are revised, the table in paragraph (c)(1) is amended, the last sentence in paragraph (d)(2) is revised, paragraphs (d) (4) through (7) are removed and paragraph (d)(8) is redesignated as paragraph (d)(4) as follows:

§ 720.2 Central and regional organization.

* * * * *

(b) * * *

(4) *Director, Office of Administration.* The Director of the Office of Administration is the official custodian of records for the Administration and performs duties relating to personnel management, career development, training (exclusive of examiner and credit union related training), equal employment opportunity, direction of general services, internal security, and is responsible for appellate determinations on requests for information. The Director is also the designated senior official for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3506(b)). The Director is aided by a Deputy Director and Directors of the Divisions of Personnel and Training, Financial Operations, Administrative Services, Management Analysis and Information Systems.

(5) *Director, Office of Examination and Insurance.* The Director of the Office of Examination and Insurance performs duties relating to the formulation of standards and procedures for examination and supervision of Federal credit unions, formulation and implementation of procedures for administration of the Federal Share Insurance Program, formulation and implementation of chartering and insurance objectives, and procedures relating to mergers, conversions and divisions of Federal credit unions. The Director is aided by a Deputy Director, an Associate Director and Directors of the Divisions of Supervisory Actions, Program Development, Supervisory Policy and Evaluation, Corporate Structure and Insurance, and Community Development.

* * * * *

(7) *Office of Insurance Fund.* The Director of the Insurance Fund performs duties relating to operations and management of the National Credit Union Share Insurance Fund which provides insurance for credit union member accounts. The Director is responsible for oversight of loan guarantee agreements, administering special loan assistance agreements for federally insured credit unions, and coordination of all liquidation related activities, including management and disposition of acquired assets and liabilities, payouts of shares and other disbursement functions. The Director is aided by a Deputy Director and a Director for the Division of Liquidations.

(8) *Director, Office of Policy Analysis.* The Director of the Office of Policy Analysis conducts research and analytical studies in the fields of cooperative thrift, credit, the impact of the national economy on the credit

union movement, and other matters of concern to the Administration, and provides policy advice to the Board and operating officials. The Director is assisted by a Deputy Director, an Assistant Director and Directors of the Divisions of Statistics and Regulatory Policy and Research.

(9) *Director, Office of Consumer Affairs.* The Director of the Office of Consumer Affairs directs the Administration's programs for consumer law compliance, consumer education and complaint handling. The Director provides policy advice to the Board on issues affecting consumers. The Director is assisted by a Deputy Director, and Directors of the Divisions of Enforcement and Consumer Policy.

* * * * *

(c) *Regional Offices.* (1) There are six Regional Offices of the Administration. The office address and the geographical area covered by each is as follows:

Region No.	Area within region	Office address
*	*	*
II		310 North Second Street, Harrisburg, Pennsylvania 17101.
*	*	*
VI		77 Geary Street (2nd Floor), San Francisco, California 94108.

(2) A Regional Director is in charge of each regional operation. The Regional Director performs such duties as directing the chartering, insurance, examination, and supervision programs, managing regional resources, directing the Administration's programs within the region, maintaining good public relations, operating an Information Service Center, and is responsible for initial determinations on requests for information properly made to the regional office. The Regional Director is aided by a Deputy Regional Director, and Chiefs of the Branches of Supervision and Examination, Consumer Affairs, Liquidations, and Credit Union Structure. In addition, each region is divided into financial examiner districts and consumer examiner districts. The consumer examiners report directly to the Chief of Consumer Affairs; the financial examiners are subordinate to Supervisory Examiners, who in turn report directly to the Regional Director or Deputy Regional Director.

(d) * * *

(2) * * * The Board is assisted in managing the Facility by the President, who is appointed by and is responsible to the Board.

(3) *President.* The President is the chief executive officer of the Facility and works under the general supervision of the Board. The President provides overall executive direction and guidance and is responsible for the ongoing management of the Facility. The President manages the Facility staff and their activities; provides general supervision to the other officers of the Facility; and initiates and maintains working relations with the credit union community, other Federal and State government authorities, and the banking and investment communities. The President is assisted by an Executive Vice President, a Vice President for Credit and Finance, a Treasurer and a Secretary.

* * * * *

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); sec. 209, 84 Stat. 1014 (12 U.S.C. 1789); sec. 307, 92 Stat. 3722 (12 U.S.C. 1795f))

[FR Doc. 81-26557 Filed 9-10-81; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 81N-0223]

Antibiotic Drugs; Gentamicin Sulfate Cream; Potency Testing Methods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for a new sample preparation method to be used in potency testing for the certification of gentamicin sulfate cream. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of this drug.

DATES: Effective September 11, 1981; comments, notice of participation, and request for hearing by October 13, 1981; data, information, and analyses to justify a hearing by November 10, 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 gentamicin sulfate cream assayed for potency using a new sample preparation method. This revised potency assay procedure incorporates an extraction method for sample preparation in lieu of the existing blending method. 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 444 (21 CFR Part 444) 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 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f), (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f), (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 444 is amended in § 444.520b by revising paragraph (b) to read as follows:

§ 444.520b Gentamicin sulfate cream.

* * * * *

(b) *Tests and methods of assay; potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the cream into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, ph 8.0 (solution 3), and shake gently to avoid gel formation. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20 to 25 milliliter quantities of solution, 3. Combine the buffer extractives and adjust to an appropriate volume to obtain a stock solution of convenient concentration. Further dilute with solution 3 to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

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 13, 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 13, 1981, a written notice of participation and request for hearing, and (2) on or before November 10, 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 analysis, 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 11, 1981.

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

Dated: September 2, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-26367 Filed 9-10-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Ammonium Chloride, Feed Grade; Removal of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing Pennwalt Corp. from the list of sponsors of approved applications and from the regulation for ammonium chloride, feed grade. Pennwalt Corp. has requested the withdrawal of approval of the new animal drug application (NADA).

EFFECTIVE DATE: September 21, 1981.

FOR FURTHER INFORMATION CONTACT: David Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the Federal Register, approval of NADA 40–978 for Sal Ammoniac (ammonium chloride, feed grade) is withdrawn. This document amends the regulation for the use of ammonium chloride, feed grade, by removing Pennwalt Corp. as a sponsor of the product. In addition, because Pennwalt Corp. is not currently the sponsor of any other approved new animal drug it is being removed from the regulations as a sponsor of an approved application.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(2) (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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(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)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Pennwalt Corp." and in paragraph (c)(2) by removing the entry for "000018".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.45 is amended by revising paragraph (c) to read as follows:

§ 558.45 Ammonium chloride, feed grade.

* * * * *

(c) *Approvals.* Premix level of 99 percent granted to No. 011462 in § 510.600(c) of this chapter.

* * * * *

Effective date. This regulation is effective September 21, 1981.

(Sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e)))

Dated: September 1, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-26461 Filed 9-10-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Noise Exposure; Hearing Conservation Amendment

Correction

In FR Doc. 81–24448 appearing at page 42622 in the issue for Friday, August 21, 1981, make the following correction:

On page 42635, in Appendix A to § 1910.95, in the second column, in the first paragraph, the equation

"$T = \frac{8}{2^{(L-90)/5}}$"

should have read

"$T = \frac{8}{2^{(L-90)/5}}$"

BILLING CODE 1505-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 810

Freedom of Information Act; Implementation

AGENCY: Advisory Council on Historic Preservation.

ACTION: Final regulations.

SUMMARY: These final regulations will implement Council responsibilities under the Freedom of Information Act (5 U.S.C. 552). Heretofore, the Council has opted to follow the Department of the Interior's Freedom of Information Act regulations. These final regulations will provide the Council with its own regulations to better meet its specific needs.

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: John M. Fowler, General Counsel, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005; 202–254–3967.

SUPPLEMENTARY INFORMATION: The Council was established by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and consists of the Secretary of the Interior, the Secretary of Housing and Urban Development, the Administrator of the General Services Administration, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Transportation, the Architect of the Capitol, the Chairman of the National Trust for Historic Preservation, the President of the National Conference of State Historic Preservation Officers, and four members from the general public appointed by the President, four historic preservation experts appointed by the President, and a governor and a mayor. The Act generally charges the Council with advising the President and the Congress on historic preservation matters. The Council's administrative support is provided by the Department of the Interior. Heretofore, the Council has opted to follow the Department's Freedom of Information Act regulations. These final regulations will provide the Council with its own regulations to better meet its specific needs.

No comments were received on the proposed rule and no changes or additions have been made in the final regulations. The final regulations were approved by the Council at its meeting on August 25, 1981.

Pursuant to 36 CFR 805, "National Environmental Policy Act Implementation Procedures," the Council has determined that an Environmental Impact Statement is not required.

Principal Author: Katherine Raub Ridley, Attorney Advisor.

Robert R. Garvey, Jr.,

Executive Director.

September 4, 1981.

36 CFR is amended by adding Part 810 to read as follows:

PART 810—FREEDOM OF INFORMATION ACT REGULATIONS

Sec.

810.1 Purpose and scope.
810.2 Procedure for requesting information.
810.3 Action on requests.
810.4 Appeals.
810.5 Fees.
810.5 Exemptions.

Authority: Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470) as amended by Pub. L. 91–243, Pub. L. 93–54, Pub. L. 94–422, Pub. L. 94–458, Pub. L. 96–199, Pub. L. 96–244, Pub. L. 96–515.

§ 810.1 Purpose and scope.

This subpart contains the regulations of the Advisory Council on Historic Preservation implementing the Freedom of Information Act (5 U.S.C. 552). Procedures for obtaining the records covered by the Act are established in these regulations. Persons seeking information or records of the Council are encouraged to consult first with the staff of the Council before filing a formal request under the Act pursuant to these regulations. The informal exchange of information is encouraged wherever possible.

§ 810.2 Procedure for requesting information.

(a) Requests for information or records not available through informal channels shall be directed to the Administrative Officer, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005. All such requests should be clearly marked "FREEDOM OF INFORMATION REQUEST" in order to ensure timely processing. Requests that are not so marked will be honored, but will be deemed not to have been received by the Council, for purposes of computing the response time, until the date on which they are identified by a member of the Council staff as being a request pursuant to the Freedom of Information Act.

(b) Requests should describe the records sought in sufficient detail to allow Council staff to locate them with a reasonable amount of effort. Thus, where possible, specific information, including dates, geographic location of cases, and parties involved, should be supplied.

(c) A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be reasonably described if the records can be identified by any process that is not unreasonably burdensome or disruptive of Council operations.

(d) If a request is denied on the ground that it does not reasonably describe the records sought, the denial shall specify the reasons why the request was denied and shall extend to the requester an opportunity to confer with Council staff in order to reformulate the request in sufficient detail to allow the records to be produced.

§ 810.3 Action on requests.

(a) Once a requested record has been identified, the Administrative Officer shall notify the requester of a date and location where the records may be examined or of the fact that copies are available. The notification shall also advise the requester of any applicable fees under § 810.5.

(b) A reply denying a request shall be in writing, signed by the Administrative Officer and shall include:

(1) Reference to the specific exemption under the Act which authorizes the denial of the record, a brief explanation of how the exemption applies to the record requested, and a brief statement of why a discretionary release is not appropriate; and,

(2) A statement that the denial may be appealed under § 810.4 within 30 days by writing to the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

(c) The requirements of § 810.3(b)(1)–(2) do not apply to requests denied on the ground that they are not described with reasonable specificity and consequently cannot be identified.

(d) Within 10 working days from receipt of a request, the Administrative Officer shall determine whether to grant or deny the request and shall promptly notify the requester of the decision. In certain unusual circumstances specified below, the time for determinations on requests may be extended up to a total of 10 additional working days. The

requester shall be notified in writing of any extension and of the reason for it, as well as of the data on which a determination will be made. Unusual circumstances include:

(1) The need to search for and collect records from field offices or other establishments that are separate from the Washington office of the Council;

(2) The need to search for, collect, and examine a voluminous amount of material which is sought in a request; or,

(3) The need for consultation with another agency having substantial interest in the subject matter of the request.

If no determination has been made by the end of the 10-day period or the end of the last extension, the requester may deem his request denied and may exercise a right of appeal in accordance with Section 810.4.

§ 810.4 Appeals.

(a) When a request has been denied, the requester may, within 30 days of receipt of the denial, appeal the denial to the Executive Director of the Council. Appeals to the Executive Director shall be in writing, shall be addressed to the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, and shall be clearly marked "FREEDOM OF INFORMATION APPEAL." Requests that are not so marked will be honored, but will be deemed not to have been received by the Council, for purposes of computing the response time, until the date on which they are identified by a member of the Council staff as being an appeal pursuant to the Freedom of Information Act.

(b) The appeal will be acted on within 20 working days of receipt. A written decision shall be issued. Where the decision upholds an initial denial of information, the decision shall include a reference to the specific exemption in the Freedom of Information Act which authorizes withholding the information, a brief explanation of how the exemption applies to the record withheld, and a brief statement of why a discretionary release is not appropriate. The decision shall also inform the requester of the right to seek judicial review in the U.S. District Court where the requester resides or has his principal place of business, or in which the agency records are situated, or in the District of Columbia.

(c) If no decision has been issued within 20 working days, the requester is deemed to have exhausted his administrative remedies.

§ 810.5 Fees.

(a) Fees shall be charged according to the schedules contained in paragraph (b) of this section unless it is determined that the requested information will be of primary benefit to the general public rather than to the requester. In that case, fees may be waived. Fees shall not be charged where they would amount to less than $3.00.

(b) The following charges shall be assessed:

(1) Copies of documents—$0.10 per page.

(2) Clerical searches—$1.00 for each one quarter hour in excess of the first quarter hour spent by clerical personnel in searching for requested records.

(3) Professional searches—$2.00 for each one quarter hour in excess of the first quarter hour spent by professional or managerial personnel in determining which records are covered by a request or other tasks that cannot be performed by clerical personnel.

(c) Where it is anticipated that fees may amount to more than $25.00, the requester shall be advised of the anticipated amount of the fee and his consent obtained before the request is processed. The time limits for processing the request under § 810.3 shall not begin to run until the requester's written agreement to pay the fees has been received. In the discretion of the Administrative Officer, advance payment of fees may be required before requested records are made available.

(d) Payment should be made by check or money order payable to the Advisory Council on Historic Preservation.

§ 810.6 Exemptions.

(a) The Freedom of Information Act exempts from disclosure nine categories of records which are described in 5 U.S.C. 552(b).

(b) When a request encompasses records which would be of concern to or which have been created primarily by another Federal agency, the record will be made available by the Council only if the document was created primarily to meet the requirements of the Council's regulations implementing Section 106 of the National Historic Preservation Act or other provisions of law administered primarily by the Council. If the record consists primarily of materials submitted by State or local governments, private individuals, organizations, or corporations, to another Federal agency in fulfillment of requirements for receiving assistance, permits, licenses, or approvals from the agency, the Council may refer the request to that agency. The requester shall be notified in writing of the referral.

[FR Doc. 81-26562 Filed 9-10-81; 8:45 am]
BILLING CODE 4310-10-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1674-3a]

Approval of Revision of Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to formally withdraw Sections .06G (1), (2) and (3) of Maryland Regulations 10.18.04 and 10.18.05 from the Maryland SIP. Although these regulations, pertaining to control of photochemically reactive organic materials (PROM) were originally appproved by EPA on March 13, 1979, 44 FR 14555, EPA has subsequently determined that such approval action was in error.

EFFECTIVE DATE: Effective September 11, 1981.

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

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Patricia Sheridan;

Maryland Department of Health and Mental Hygiene, Environmental Health Administration, Air Quality Programs, 201 W. Preston Street, Baltimore, Maryland 21201, ATTN: George P. Ferreri;

Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone (215) 597-8392.

SUPPLEMENTARY INFORMATION:

I. Background

On April 18, 1980, 45 FR 26369, and May 7, 1980, 45 FR 30089, EPA published

a list of regulations contained in the federally-enforceable Maryland State Implementation Plan (SIP) governing control of hydrocarbons and volatile organic compounds (VOC) emissions in the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR) and the National Capitol Interstate AQCR. In these notices, EPA also proposed that certain regulations be withdrawn from the Maryland SIP and certain other regulations be revised, as a result of requests by Maryland to EPA. These requests were submitted to EPA by Maryland on February 10, 1977, January 19, 1979, September 26, 1979 and December 10, 1979. Specifically, the proposed revisions of the Maryland SIP consist of the following:

(1) Withdrawal from the Maryland SIP of Regulations 10.18.04.06G(1), (2), and (3) and 18.05.06G(1), (2), and (3), governing control of emissions of photochemically reactive organic materials (PROM). These regulations were originally submitted to EPA for inclusion into the SIP on April 24, 1974 and December 11, 1974, and approved by EPA as plan revisions on March 13, 1979, 44 FR 14555. However, before EPA's approval action had become effective, Maryland submitted to EPA, for consideration as plan revisions, substantially revised versions of Sections .06G(1) and (3) of Regulations 10.18.04 and 10.18.05. Because these substantially revised regulations were submitted to EPA (January 19, 1979) prior to the Administrator's March 13, 1979 final rulemaking action, EPA believes that such action was in error. Further, it is also EPA's judgment that approval of Section .06G(2) of Regulations 10.18.04 and 10.18.05 was in error, because of doubts that were subsequently raised about the enforceability of this provision. The State of Maryland recognized this fact and on November 2, 1979, after formal notice and public hearing, deleted Section .06G(2) from Maryland Regulations 10.18.04 and 10.18.05, effective January 2, 1980. On December 10, 1979, Maryland requested that EPA withdraw Section .06G(2) of Regulations 10.18.04 and 10.18.05 of the Maryland SIP.

(2) Amendments to sections .04J(3)a and .04J(3)b of Maryland Regulations 10.18.04 and 10.18.05. These amendments, submitted by Maryland to EPA on February 10, 1977, serve to clarify the language of the current SIP-approved regulation controlling emissions from organic solvents. The amendment specifies that the 85% control, currently required in the SIP, would apply to the *discharge of* organic solvents from any installation or building erected on or before May 12, 1972. Public hearings were held on October 6, 1976 in Baltimore.

(3) The State of Maryland's interpretation of the scope of coverage of Maryland Regulation 10.18.04.04J. On January 21, 1980, the State of Maryland informed EPA that "nothing in [Regulation] 10.18.04.04J is intended to regulate or limit emissions of organic materials from coke ovens, blast furnaces, open hearth, fuel burning equipment, or other similar operations which liberate hydrocarbons as a result of combustion of fuels. Hydrocarbon emissions from painting are not intended to be regulated by any regulatory provisions other than the limitations in .04J(6) on architectural coatings. The State does not deem antifouling paints to be architectural coatings. This regulation [10.18.04.04J], however, does apply to coke oven by-product recovery plants. These regulations also apply to any other process or operation, including steel-making, which makes use of hydrocarbons as a raw material or starting material to the process, where a portion of the material may be discharged to the air."

II. Summary of Public Comments

During the 30-day public comment period, no comments were received with respect to the actions being taken in this notice of final rulemaking.

III. EPA Actions

By this notice, the Administrator approves the amendments to Section .04J(3)a and .04J(3)b of Maryland Regulations 10.18.04 and 10.18.05 submitted February 10, 1977 and as further interpreted in the January 21, 1980 letter from the State of Maryland as revisions of the Maryland SIP. At the same time, the Administrator withdraws from the currently-approved Maryland SIP, Sections .06G(1), .06G(2), and .06G(3) of Maryland Regulations 10.18.04 and 10.18.05 retroactive to March 13, 1979. These rulemaking actions shall become effective upon publication of this notice so as to correct the erroneous approval action of March 13, 1979.

Accordingly, 40 CFR 52.1070 (Identification of plan) of Subpart V (Maryland) is revised to reflect the changes to the Maryland SIP resulting from the Administrator's actions as discussed in this notice.

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.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that 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. The attached rule constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act. Under Executive Order 12291, EPA also must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rule is not "major" for the same reasons it would not have significant economic impact. This action only approves State actions and imposes no new requirements of its own.

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

(42 U.S.C. 7401–642)

Dated: August 28, 1981.

John W. Hernandez,

Acting Administrator.

Subpart V, Title 40, Part 52 of the Code of Federal Regulations is revised as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart V—Maryland

1. In § 52.1070, the section heading is revised and paragraphs (c)(37)–(40) are added to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(37) Amendments to Section .04J(3)a and .04J(3)b (Organic Compounds) of Maryland Regulations 10.18.04 and 10.18.05; submitted on February 10, 1977 by the Governor.

(38) Deletion of Section .06G(2) (Control and Prohibition of Photochemically Reactive Organic Compounds from sources existing on or before February 12, 1974) of Maryland Regulations 10.18.04 and 10.18.05; submitted on December 10, 1979 by the Governor.

(39) Deletion of Sections .06G(1) and .06G(3) (Control and Prohibition of Photochemically Reactive Organic Materials From Sources Built or Modified after February 12, 1974) of Maryland Regulations 10.18.04 and

10.18.05 from the Maryland State Implementation Plan (SIP).

(40) Letter of January 21, 1980 from Maryland to EPA explaining the State's interpretation of the scope of coverage of Maryland Regulation 10.18.04.04J.

[FR Doc. 81-26389 Filed 9-10-81; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL 1874-3b]

Approval of Revision of Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this regulation is to approve the revisions to Section .04J of Maryland regulations 10.18.04 and 10.18.05, which govern emissions of organic compounds. The revisions were part of the plan revisions to meet part D of the Clean Air Act.

In a separate rulemaking notice, published elsewhere in today's Federal Register, EPA is taking action with respect to Maryland regulation which controls the emission of volatile organic compounds 10.18.04 and 10.18.05, Sections .04J(3)a, 04J(3)b, and .06G(2).

EFFECTIVE DATE: Effective September 11, 1981.

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

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Patricia Sheridan;

Maryland Department of Health and Mental Hygiene, Environmental Health Administration, Air Quality Programs, 201 W. Preston Street, Baltimore, Maryland 21201, ATTN: George P. Ferreri;

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Vollberg (3AH11), U.S. Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Phone: (215) 597-8990.

SUPPLEMENTARY INFORMATION:

I. Introduction

The revisions to the Maryland State Implementation Plan (SIP) were developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act (The Act). On August 1, 1979, 44 FR 45194; April 18, 1980, 45 FR 26369; and May 7, 1980, 45 FR 30089; EPA published notices of proposed rulemaking affecting Section .04J and Section .06G(2) of Maryland regulations 10.18.04 (Metropolitan Baltimore Intrastate AQCR) and 10.18.05 (National Capital Interstate AQCR).

In the Federal Register notice published on August 1, 1979, EPA proposed the revisions to the Maryland SIP which were submitted on January 19, 1979, as required by Part D of the Act. These revisions amended many, but not all, of the current SIP-approved regulations. On August 12, 1980, 45 FR 53460, EPA approved in part the Maryland revisions, proposed conditional approval of portions, 45 FR 53490, and reserved action on Section .04J and .06G(2) until it completed review of the revisions and public comment received in response to the proposed rulemaking notices of April 18, 1980, 45 FR 26369 and May 7, 1980, 45 FR 30089. Therefore, EPA in this notice, and in another elsewhere in this Federal Register, is taking final action on the revisions to Section .04J and .06G(2). The Sections affected by this action are .04J(1)c, .04J(1)d, .04J(1)e, .04J(1)f, .04J(1)g, .04J(1)h, .04J(1)i, .04J(3)d, .04J(4)a, .04J(4)b, and .04J(5)a–j.

II. Background

On April 18, 1980, 45 FR 26369; and May 7, 1980, 45 FR 30089; EPA published a list of regulations contained in the federally enforceable Maryland State Implementation Plan (SIP) governing control of hydrocarbons and volatile organic compounds (VOC) emissions in the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR) and the National Capital Interstate AQCR. In these notices, EPA also proposed that certain regulations be withdrawn from the Maryland SIP and certain other regulations be revised, as a result of requests by Maryland to EPA to revise the SIP. These requests were submitted to EPA by Maryland on February 10, 1977; January 19, 1979; September 28, 1979; and December 10, 1979. Specifically, these proposed revisions of the Maryland SIP consisted of the following:

(1) *Withdrawal from the Maryland SIP of Regulations 10.18.04.06G (1), (2), and (3) and 10.18.05.06G (1), (2), and (3), governing control of emissions of photochemically reactive organic materials (PROM).* These regulations were originally submitted to EPA for inclusion into the SIP on April 24, 1974 and December 11, 1974, and approved by EPA as plan revisions on March 13, 1979, 44 FR 14555. However, before EPA's approval action had become effective, Maryland submitted to EPA, for consideration as plan revisions, substantially revised versions of Section .06G (1) and (3) of Regulations 10.18.04 and 10.18.05. Because these substantially revised regulations were submitted to EPA (January 19, 1979) prior to the Administrator's March 13, 1979 final rulemaking action, EPA believes that such action was in error. Further, it is also EPA's judgment that approval of Section .06G(2) of Regulations 10.18.04 and 10.18.05 was in error because of doubts that were subsequently raised about the enforceability of this provision. The State of Maryland recognized this fact and on November 2, 1979, after formal notice and public hearing, deleted Section .06G(2) from Maryland Regulations 10.18.04 and 10.18.05, effective January 2, 1980. On December 10, 1979, Maryland requested that EPA withdraw Section .06G(2) of Regulations 10.18.04 and 10.18.05 of the Maryland SIP.

(2) *Amendments to Section .04J(3)a and .04J(3)b of Maryland Regulations 10.18.04 and 10.18.05.* These amendments, submitted by Maryland to EPA on February 10, 1977, serve to clarify the language of the current SIP-approved regulation controlling emissions from organic solvents. The amendment specifies that the 85% control, currently required in the SIP, would apply to the *discharge of* organic solvents from any installation or building erected on or before May 12, 1972. Public hearings were held on October 6, 1976 in Baltimore.

(3) *The State of Maryland's interpretation of the scope of coverage of Maryland Regulation 10.18.04.04J.* On January 21, 1980, the State of Maryland informed EPA that "nothing in [Regulation] 10.18.04.04] is intended to regulate or limit emissions of organic materials from coke ovens, blast furnaces, open hearth, fuel burning equipment, or other similar operations which liberate hydrocarbons as a result of combustion of fuels. Hydrocarbon emissions from painting are not intended to be regulated by any regulatory provisions other than the limitations in .04J(6) on architectural coatings. The State does not deem antifouling paints to be architectural coatings. This regulation [10.18.04.04]], however, does apply to coke oven by-

products recovery plants. These regulations also apply to any other process or operation, including steel-making, which makes use of hydrocarbon as a raw material or starting material to the process, where a portion of the material may be discharged to the air."

Maryland further stated that "although benzene is a major component of the coke oven by-product recovery plant, this material is a non-reactive organic material and not regulated by .04]. Control of benzene emissions will be achieved through enforcement of regulations dealing with hazardous and toxic substances."

III. Summary of Public Comments

During the 30-day public comment period following publication of the April 18, 1980 notice of proposed rulemaking, EPA received comments from Venable, Baetjer and Howard, Attorneys-at-Law, on behalf of Bethlehem Steel Corporation.

The comments covered three topics; the Hydrocarbon Regulations, the Particulate Regulations, and Emission Inventories. Each comment is summarized below and EPA's response is presented in the following section of this notice.

A. Hydrocarbon Regulations

1. The first comment on the hydrocarbon regulation was that: "The State's regulation of growth in hydrocarbon non-attainment areas (new COMAR 10.18.04.06G(1)) literally requires that emissions from all commonly owned sources in the same Standard Industrial Classification Major Group ("SICMG") be aggregated to determine coverage, even if the emissions are from geographically distinct sources. Thus, a minor increase in emissions in a non-attainment area could trigger regulation under 06G(1) if the owner operated another 50 ton source elsewhere in the State (even if in another AQCR, and even if in an attainment area). Furthermore, the State's regulations apply to sources with controlled emissions in excess of 50 tons per year. (The State had submitted its plan revisions prior to the Per Curiam opinion in *Alabama Power* and has proposed raising the cut-off level to 100 tons per year under 7 Md. Reg. 879, May 2, 1980.) The Federal definition of "source" is limited to "contiguous or adjacent properties" (both in the currently effective Offset Ruling Section II(A) (1), 44 FR 3282, and in the proposed revisions to the Offset Ruling—see 44 FR 51956, September 5, 1979) and is, therefore, less restrictive than the literal reading of 06G(1). *Alabama Power Company v. Costle* 13 ERC 1993 (D.C. Circ. 1979) (dealing with the PSD definition of "source" (40 CFR 51.24 (b) (4) and 52.21 (b) (4)), which is the same as the Offset Ruling definition of "source") holds that the Federal regulations may only apply to sources with controlled emissions in excess of 250 tons per year (except enumerated types of sources for which the cut-off level is 100 tons per year). Maryland Code Art. 43 section 693 (b) limits the stringency of State air quality regulations to that required by Federal law. Furthermore, a literal reading of 06G(1) is not rationally related to the improvement of air quality in the affected Air Quality Control Region ("AQCR") since it effects turns on accidents of ownership rather than the nature of emissions in the AQCR. Accordingly, 06G(1) should be applied only to sources classified in the same SICMG and located on property contiguous or adjacent to the proposed new source site, and then only if controlled emissions will exceed 250 tons per year, or 100 tons per year, as appropriate."

2. Secondly, the commenter raised questions concerning Section .04] as noted: "The current definitions of PROM, PROS, Organic Solvent and Organic Material (COMAR 10.18.04 .04](1)) (c), (d), (e), and (i) could all read to include benzene, although the State's consistent interpretation has been that benzene is not subject to control for ozone attainment purposes (see the January 21, 1980 letter from George Ferreri to Stephen Wassersug which asked the EPA to publish a notice to the effect along with the portion of that letter which is cited at 45 FR 26370; the January 7, 1980 letter from George Ferreri to Max Oppenheiner; the May 1, 1979 letter from George Ferreri to Anthony Carey; and the State's technical memorandum TM-78-02, "Reactivity Considerations in Proposed Changes to Regulations for Urban Area Hydrocarbon Controls," all of which have previously been submitted to EPA). As EPA has recognized (42 FR 35314), benzene is negligibly photochemically reactive. There is no evidence that control of benzene emissions will reduce ambient concentrations of criteria pollutants (and in fact, EPA gives no SIP credit for reductions in benzene emissions). EPA should acknowledge that the existing regulations are not intended to apply to benzene emissions."

3. Further, the commenter noted EPA's decision not to federalize State regulations of emissions of methyl chloroform or methylene chloride, published May 16, 1980, 45 FR 32424. The notice stated:

> "Section 110(a) of the Clean Air Act limits state implementation plans to measures designed to achieve and maintain the national ambient air quality standards (NAAQS). Because current information indicates that emissions of methyl chloroform and methylene chloride do not appreciably affect ambient ozone levels, EPA cannot approve measures specifically controlling emissions of either or both compounds as part of a federally enforcable ozone SIP."

The commenter's interpretation is that: "The result, as announced in the **Federal Register**, is that EPA will not federalize State regulations governing compounds which are "negligibly photochemically reactive and do not appreciably contribute to the formation of ozone." He agrees with the legal conclusion not to federalize such regulations and notes that the rationale appears to apply equally to benzene which, as he points out, EPA has also recognized to have "negligible photochemical reactivity"—see 42 FR 35314, as well as the two compounds specifically mentioned in the May 16, 1980 notice.

Therefore, the commenter contends that EPA is bound by the State of Maryland's statement that the proposed regulations are not intended to cover benzene; he also notes that even if EPA disagrees with this contention, the decision announced in the May 16, 1980 **Federal Register** precludes EPA from deeming the regulations to apply to benzene as a matter of federal law.

Response: EPA has reviewed the proposed revision of 10.18.04.06G(1) and has generally found its applicability to be consistent with the requirements of Section 173, Part D, of the Clean Air Act. Noted deficiencies have been discussed in the August 1, 1979 notice of proposed rulemaking, 44 FR 45202. An Interpretation submitted by the State of Maryland on August 29, 1980 states: "* * * Maryland regulations prohibit a person from constructing or modifying a source which discharges more than 50 tons/year and is located in a non-attainment area unless certain conditions are met." One condition which the commenter appears to be addressing is that all major sources owned or operated in the State by the person seeking the exemption must be in compliance with all SIP emission standards or have an approved plan for compliance. This condition is consistent with the requirement of Section 173(3). As such, EPA finds the regulation meets the requirement of Part D, Section 173. A separate rulemaking on the conditional approval of the Part D SIP, which was

proposed August 12, 1980, 45 FR 53490, will address the regulation (10.18.04.06G(1)).

While the *Alabama Power Company v. Costle* 636 F. 2d 323 (D.C. Cir. 1979) has resulted in a change in definitions in the PSD and Offset regulation, there is no federal requirement that State regulations be identical, so long as they are at least as stringent as the federal requirement. A State may choose to have regulations which are more inclusive than the federal rules.

As to the portion of the comment which addresses the Maryland Code requirement of Article 43, § 693(b), Maryland implemented § 693(b)(3) through the adoption of the national ambient air quality standards found at COMAR 10.18.01.04. The additional requirement imposed by .06G1 regulates emissions from individual or groups of sources, rather than setting standards for ambient air quality. Furthermore, .06G1 is applicable in nonattainment areas, whereas § 693(b)(6) regulates attainment areas.

Noting the commenter's comments and the Maryland interpretation, EPA agrees that the existing regulation in Section .04J does not apply to benzene emissions.

B. Particulate Regulations

The commenter made the following comments:

1. Definition of "Source". "The State's regulation of growth in particulate non-attainment areas contains a definition of source similar to the definition which applies in hydrocarbon non-attainment areas. Accordingly, the substance of the comments made above should be considered in connection with COMAR 10.18.04.04H(1) as well."

2. Pending Plan for Compliance. "As noted at 44 FR 45202, the Plan for Compliance ("PFC") being negotiated between Bethlehem Steel Corporation and the State of Maryland is (and always has been regarded as) an integral part of the steel industry regulations which, in turn, are significant to the particulate regulations in the Metropolitan Baltimore Intrastate AQCR. It is premature for EPA to act on the particulate regulations before the PFC is approved. Neither component can stand independently, and it is impossible to assess or comment on the reasonableness of one without knowing the terms of the other. In particular (but without intending to limit the generality of the foregoing), we note that EPA has expressed concern about the enforceability of Maryland's iron and steel regulations, particularly the use of EPA Method #9 and reports that EPA and Maryland have agreed to develop a more appropriate test procedure (44 FR 45202, August 1, 1979). Since such a procedure may impact Bethlehem and its Sparrows Point Plant, we request an opportunity to comment on that test procedure when a proposed version is developed."

Response: For the response to comment 1 on particulate see the response above to the comment on Regulation 10.18.04.06G.

EPA agrees that the PFC and the Iron and Steel Regulations as they are presently written complement each other. We have proposed conditional approval on August 12, 1980, 45 FR 53490, based upon the State of Maryland submitting a final PFC as a part of the Iron and Steel Regulation. EPA will take final action on the conditional approval in the near future.

C. Emission Inventory

The final comment submitted dealt with emission inventories as follows: "The EPA has identified some discrepancies between Maryland's 1977 and 1982 emission inventories and EPA's own estimates of emissions for those two years, 44 FR 45202, (August 1, 1979). Bethlehem is aware of the fact that some of the discrepancies concern emissions attributed to Bethlehem's steel plant at Sparrows Point, Maryland. To the best of our knowledge, Maryland's Bureau of Air Quality has not finalized its emission inventories for 1977 and 1982. Bethlehem requests the opportunity to review and comment on Maryland's SIP calculation once they have been finalized by Maryland and submitted to EPA for review and prior to EPA federalization of any relevant regulation."

Response: The emission inventory discrepancy noted in the August 1, 1979 proposed notice, 44 FR 45202, did not concern the Bethlehem Plant. The State of Maryland did discuss emission factors for the steel plant in May of 1979 to be certain that it used the latest EPA emission factors in its calculations. These were resolved at that time and the commenter should contact the State of Maryland to discuss the emission factors which have been used in the development of the Plan for Compliance and which Bethlehem Steel Corporation has negotiated with the State of Maryland.

IV. EPA Action

Based upon EPA's review, the Administrator approves the revision to 10.18.04.04J and 10.18.05.04J as submitted January 19, 1979, and amended September 26, 1979. EPA further interprets that these regulations do not regulate benzene emissions. These rulemaking actions become effective upon publication of this notice, so that the growth restriction may be lifted as soon as possible in those areas for which the State of Maryland has submitted an adequate Part D plan. Accordingly, 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) is revised to reflect the changes to the Maryland SIP resulting from the Administrator's actions as discussed in this notice.

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.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that 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. The attached rule constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act. Under Executive Order 12291, EPA also must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rule is not "major" for the same reasons it would not have significant economic impact. This action only approves State actions and imposes no new requirements of its own.

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

(42 U.S.C. 7401–642)

Dated: August 28, 1981.

John W. Hernandez, Jr.,

Acting Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart V—Maryland

1. Section 52.1070, is amended by adding paragraph (c)(43) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(43) Amendments to Regulations 10.18.04 and 10.18.05; Sections .04J(1)c, .04J(1)d, .04J(1)e(i), .04J(1)f, .04J(1)g, .04J(1)h, .04J(1)i(i), .04J(3)d, .04J(4)a,

.04J(4)b, and .04J(5) a through j; submitted on January 19, 1979, and amended on September 26, 1979 by the State of Maryland.

[FR Doc. 81-26531 Filed 9-10-81; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL 1874-3C]

Approval of Revision of Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's full approval of portions and approval of the schedules and conditions to correct deficiencies of other portions of the Maryland State Implementation Plan (SIP). The revision to the SIP was submitted on January 19, 1979 to satisfy the requirements of Part D of the Clean Air Act (The Act), as amended in 1977. In the notice of final rulemaking, appearing in the **Federal Register** on August 12, 1980, 45 FR 53460, EPA approved certain parts of the revisions to the Maryland SIP, and in a separate notice, 45 FR 53490, proposed conditional approval of other parts. A conditional approval requires the State to remedy identified deficiencies by specified deadlines.

EFFECTIVE DATE: Effective September 11, 1981.

ADDRESSES: Copies of the materials submitted by the State of Maryland are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan;

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Vollberg (3AH11), Air Programs Branch, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Curtis Building, Tenth Floor, Philadelphia, PA 19106, Telephone: (215) 597-8990.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Maryland SIP revision was developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act, as amended in 1977. In general, the SIP is required to provide for attainment and maintenance of the national ambient air quality standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Clean Air Act. Specific requirements for an approvable SIP are discussed in detail in the April 4, 1979 **Federal Register**, 44 FR 20372, as amended by 44 FR 38583, July 2, 1979; 44 FR 50371, August 28, 1979; 44 FR 53761, September 17, 1979; and 44 FR 67182, November 23, 1979.

II. Background

EPA proposed the schedules and conditions to correct deficiencies of the revision to the Maryland SIP on August 12, 1980. The public was invited to comment on the proposal during the 30-day public comment period. EPA received comments only from the State of Maryland. These were submitted by George P. Ferreri, Administrator, Air Quality Programs, Department of Health and Mental Hygiene, on August 29, 1980 and amended by letter of October 29, 1980. These comments are discussed in the following sections of this notice.

1. Approval of Maryland Regulations 10.18.04 and 10.18.05 Section .06 Governing Preconstruction Review

Section 172(b)(6) and Section 173 of the Clean Air Act require that a preconstruction review procedure be incorporated into the Part D plans. These requirements for major new or modified sources are defined in Section 173. EPA in the notice of proposed rulemaking, 44 FR 45194, 1979, identified several deficiencies with the Maryland preconstruction review regulations. These were:

(1) The regulations did not provide for a review of sources undergoing modification. The State of Maryland agreed that this was an omission and developed proposed regulations to remedy the problem. Public hearings on the proposed regulations were held in August, 1979. Maryland submitted these as a formal State Implementation Plan (SIP) revision on December 10, 1979. Section .06 of Regulation 10.18.04 and 10.18.05 now include a requirement for review of sources undergoing modification, meeting the requirement of Section 173.

(2) EPA noted in the notice of proposed rulemaking that the Maryland offset provision required reasonable further progress on an annual basis. The question arose as to the review of the impact of sources which would operate on a seasonal basis. Maryland stated that in the permit application review, the short-term emission rates and impacts would apply to the permit. On August 12, 1980, EPA proposed to approve conditionally the new source regulation, provided that Maryland submit a written commitment to examine and use the most restrictive emission rate in order to determine compliance with the regulation. On August 29, 1980, Maryland submitted a written commitment addressing the above condition and thereby satisfied EPA's concern.

(3) The Maryland regulations require a permit applicant to demonstrate that all major sources owned or operated by the applicant are in compliance or on a schedule for compliance with applicable emission standards. They did not require the same showing of sources owned or operated by any entity controlling, controlled by, or under common control with the applicant as required by Section 173(3) of the Clean Air Act.

In the letter dated August 29, 1980, an "Advice of Counsel" prepared by the Maryland Assistant Attorney General, satisfactorily substantiated that the regulations (10.18.04 and 10.18.05 Section .06) do meet the requirements of Section 173(3) of the Clean Air Act.

(4) EPA proposed to approve conditionally the new source provisions of the Maryland SIP provided that Maryland committed itself in writing by September 1, 1980 to submit all external offsets as SIP revisions.

Maryland made that commitment on August 29, 1980. Because Maryland has made the appropriate commitments or clarified all the conditional items of Part I, as set forth in the proposed schedule and conditions to correct deficiencies in Maryland's Nonattainment Area Plan Revision, 45 FR 53490, August 12, 1980, EPA is approving Maryland Regulations 10.18.01.01(y), Section .06 of 10.18.04, and 10.18.05 as submitted January 19, 1979 and December 10, 1979.

2. Conditional Approval of Maryland Regulations 10.18.04.04(K)(10) and 10.18.05.04(K)(10) Governing the Use of Cutback Asphalt

Section .04(K)(10)(c) of Maryland Regulations 10.18.04 and 10.18.05 includes a temperature exemption for use of cutback asphalt. A seasonal exemption was recommended by EPA for ease of enforcement. In discussions with Maryland, the State indicated that it intends to use the temperature exemption and will enforce the

regulation by means of the Maryland Highway Administrator's responsibility to enforce the materials specification for highway use. Additionally, the State of Maryland has informed EPA that the regulation will allow for some solvent to be present in the emulsified asphalts as represented by the specifications of the State Highway Administration. This intent will be clarified in a regulation amendment. Maryland committed to EPA by letters of August 29, 1980 and October 29, 1980 to submit documentation of the operation procedure or the policy which will form the basis of the enforcement of the regulation and an acceptable regulatory limit upon the solvent content in emulsified asphalts by May 31, 1981. Therefore, EPA approves of Section .04(K)(10) Regulations 10.18.04 and 10.18.05 on the condition that the State submits the documentation and acceptable regulatory limit, as stated above, by May 31, 1981.

3. Conditional Approval of the Maryland Volatile Organic Compounds (VOC) Regulations 10.18.04 and 10.18.05 Section .04(K)

The following sections of Maryland's VOC regulations should include a test method for determining compliance with the requirement for 90 percent collection efficiency: K(2)(b)(ii)(bb), K(3)(b)(ii)(bb), K(5)(b)(ii)(bb), K(6)(b)(ii)(bb), and K(7)(b)(ii)(bb). An EPA memorandum dated November 15, 1979 outlining the procedures for test methods has been transmitted to the State of Maryland and should be used in the development of the State regulations to be incorporated into the SIP. Maryland is making the requested changes to its Technical Memorandum 73-116. However, a revision to the regulations adding the test procedures, is also required, which must be done in accordance with the Maryland Administrative Procedures Act. Therefore, Maryland has asked for an extension of the deadline to May 31, 1981. This is satisfactory to EPA. Therefore, EPA is approving Regulations 10.18.04 and 10.18.05 Sections .04(K), on the condition that Maryland adopt appropriate test procedures by May 31, 1981.

4. Conditional Approval of the Control Strategies To Attain the Standards for Total Suspended Particulates (TSP)

EPA conditionally approves the plan to attain the primary National Ambient Air Quality Standard for TSP submitted for the Metropolitan Baltimore area provided that:

(1) Maryland submits an approvable Plan for Compliance for applicable steel facilities and, if necessary, revises the iron and steel regulations to satisfy the Agency's enforceability concerns. This condition was proposed in the August 12, 1980 **Federal Register** (45 FR 53490) with a deadline of October 1, 1980 for State submittal of the Plan for Compliance. Maryland has submitted a preliminary Plan for Compliance, in which EPA has found deficiencies. Maryland has committed to EPA to renegotiate the Plan for Compliance and, if necessary, revise its iron and steel regulations by August 11, 1981. Maryland needs the extension so it may adhere to the time requirements of its Administrative Procedures Act after the Plan is renegotiated. EPA finds that the extension is required and finds that Maryland is progressing expeditiously toward satisfying the condition. Therefore, EPA approves Regulations 10.18.04 and 10.18.05, Sections .02 and .03 (control strategies to attain the standard for Total Suspended Particulates), as submitted January 19, 1979, on the condition that Maryland submits an approvable Plan for Compliance for applicable steel facilities and if necessary, revises the iron and steel regulations by August 11, 1981.

III. Conclusion

Based on the above discussion, the Administrator approves the amendments to Regulations 10.18.01.01(y) (definition of "modification"), 10.18.04.06, and 10.18.05.06 (governing preconstruction review) as revisions to the Maryland Nonattainment Area Plan. In conjunction with the Administrator's approval, 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) should be revised to incorporate these amendments.

At the same time, EPA conditionally approves Regulations 10.18.04.04K(10) and 10.18.05.04K(10) (governing the use of cutback asphalt); 10.18.04.04K and 10.18.05.04K (governing volatile organic compound emissions), and 10.18.04.02, 10.18.04.03, 10.18.05.02, and 10.18.05.03 (control strategies to attain the standards for total suspended particulates (TSP) as revisions to the Maryland Nonattainment Area Plan. In conjunction with the Administrator's conditional approval, 40 CFR 52.1075 (Conditional Approvals) of Subpart V (Maryland) should be revised to incorporate these amendments.

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 to today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that 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. The attached rule constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act. Under Executive Order 12291, EPA also must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rule is not "major" for the same reasons it would not have significant economic impact. This action only approves State actions and imposes no new requirements of its own.

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

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

Dated: August 28, 1981.

John W. Hernandez,

Acting Administrator.

Part 52 of Title 40, Code of Federal Regulations is revised to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart V—Maryland

1. In § 52.1070, paragraphs (c) (41) and (42) are added to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(41) Amendments to Sections .06 of Maryland Regulation 10.18.04 and 10.18.05 as submitted on January 19, 1979 by the Governor.

(42) Amendment to Section .01(y) of Maryland Regulation 10.18.01 as submitted on December 10, 1979 by the Governor.

2. Section 52.1075 is added to read as follows:

§ 52.1075 Conditional approvals.

(a) Conditional approval of amendments to Sections .04K(10) of Maryland Regulations 10.18.04 and 10.18.05 submitted on January 19, 1979 by the Governor. Maryland is to submit documentation of the operational procedure or the policy which will form the basis of the enforcement of the

regulation and an acceptable regulatory limit upon the solvent content in emulsified asphalts by May 31, 1981.

(b) Conditional approval of amendments to Sections .04K(2)(b)(ii)(bb), .04K(3)(b)(ii)(bb), .04K(6)(b)(ii)(bb), and .04K(7)(b)(ii)(bb) of Maryland Regulations 10.18.04 and 10.18.05 as submitted January 19, 1979 by the Governor. Maryland is to submit for its VOC regulations, an acceptable test method for determining compliance with the requirement for 90 percent collection efficiency by May 31, 1981.

(c) Conditional approval of amendments to Sections .02 and .03 of Maryland Regulations 10.18.04 and 10.18.05 as submitted January 19, 1979 by the Governor. Maryland is to submit an approval Plan for Compliance for applicable steel facilities, and, if necessary, revise the iron and steel regulations by August 11, 1981.

[FR Doc. 81-26530 Filed 9-10-81; 8:45 am]
BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 81-409]

Office of Science and Technology; Change in Functional Statement

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has established the position of Assistant to the Chairman for International Communications. The functions of coordinating the Commission's international responsibilities have been transferred to this new office from the Office of Science and Technology (OST), requiring a change in the OST functional statement.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT: Charles Marietta, Office of Executive Director (202) 632-7513.

SUPPLEMENTARY INFORMATION:

Adopted: August 28, 1981.

Released: September 2, 1981.

In the matter of amendment of Part 0 of the Commission's Rules to reflect a change in the Office of Science and Technology; order.

1. The Commission has before it for consideration a proposal to establish the position of Assistant to the Chairman for International Communications. Implementation of the proposal would require an amendment to § 0.31 of the Commission's Rules and Regulations, which currently assigns certain of the Assistant's proposed functions to the Office of Science and Technology.

2. International telecommunications have become a vital area of interest for the Commission, with the objective of promoting the coordination and planning of international communications which assures the vital interests of the American public in commerce, defense, and foreign policy. To ensure appropriate visibility of the Commission's needs in this area, the position of Assistant has been proposed as the central liaison for the Commission and its staff in international telecommunications, coordinating overall Commission activity in this area. This function is being reassigned from the International Staff, Office of Science and Technology. In other respects, the Office of Science and Technology and other Commission elements responsible for various facets of the international program will continue as before.

3. The amendment adopted herein pertains to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act are therefore inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. Therefore, it is ordered, effective October 19, 1981, that Part 0 of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 0—COMMISSION ORGANIZATION

Appendix

1. In § 0.31 paragraph (b) is revised to read as follows:

§ 0.31 Functions of the Office.

* * * * *

(b) Represent the Commission at various national and international conferences and meetings devoted to the progress of communications and the development of technical and other information and standards, and serve as Commission coordinator for the various national conferences when appropriate.

* * * * *

[FR Doc. 81-26571 Filed 9-10-81; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1121

[Ex Parte No. 274 (Sub-No. 6)]

Abandonment of Railroad Lines and Discontinuance of Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: Section 402 of the Staggers Rail Act of 1980, Pub. L. 96-448, made numerous changes in the procedures governing railroad abandonments and discontinuances of service, 49 U.S.C. 10903-10905. On November 25, 1980, the Commission published interim rules to effectuate these statutory changes and requested public comment on them. (45 FR 78147).

After reviewing the comments the Commission has decided to adopt the interim rules as final with certain changes. These final rules, which revise 49 CFR Part 1121, are set forth in the Appendix to this notice.

The most significant changes caused by these rules are in: (1) The time frames governing processing of abandonment and discontinuance applications; (2) the elimination of the automatic right to appeal initial decisions; and (3) the procedures for making offers of financial assistance either to subsidize continued operations or to purchase the rail line being abandoned.

DATE: These regulations are effective on September 11, 1981.

FOR FURTHER INFORMATION CONTACT:

Ellen D. Hanson (202) 275-7245
Frederick T. Stocker (202) 275-7988

For Copies of These Rules

Office of the Secretary, (202) 275-7248 or (800) 424-5230.

SUPPLEMENTARY INFORMATION:

The Staggers Rail Act of 1980 (Staggers Act) amended 49 U.S.C. 10903-10905 governing railroad abandonments and discontinuances of service. These changes required us to propose revisions to our regulations at 49 CFR Part 1121, "Abandonment of Railroad Lines and Discontinuance of Service" (and to adopt the revisions for interim use).[1] For

[1] There are certain discrepancies between the numbering of the interim rules as they appeared in

Continued

the most part, the revisions simply mirror the statutory language. Other revisions represent our interpretation of the amended statute in the light of its legislative history.

Comments have been received from several States and State entities, an individual shipper, shipper associations and cooperatives, and an association representing rail carriers.

Although the comments have demonstrated a need for some minor refinements to the rules, our basic approach is not altered. Because these refinements are procedural in nature, there is no need for additional public comment. Additionally, some minor, nonsubstantive, editorial changes have been made to the rules for the sake of clarity.

The criticisms raised by the comments fall into a number of broad categories. First, several parties criticized the procedures adopted to permit processing of abandonment cases within the expedited statutory time frames. Second, several comments requested us to remove the verification requirement for protests and to provide a standard for exercising our discretion to investigate abandonment applications. Third, several parties complained that the rules unfairly restricted the right to an appeal from decisions of employee boards. Finally, commentors pointed to portions of our rules governing offers of financial assistance as confusing or unfair. We will address these groups of issues in turn.

General Time Limits

Many of the commentors object to the various steps taken in the interim rules to enable us to comply with the severe time constraints imposed by the Staggers Act. In those instances where we have some latitude to set time frames for the filing of pleadings, however, we have attempted to strike a reasonable balance among competing interests in allocating available time. We believe these rules afford interested parties sufficient time to develop and present relevant data, while allowing us time to exercise our duties in a responsible manner.

Section 1121.30(b) governs the posting and publication of applicant's notice of intent to abandon or discontinue service. The rules merely combine the statutory dictate that these requirements be satisfied "within the most recent 30 days prior to the date the application is filed," with our prior rule that the requirements be met at least 15 days prior to filing. Some commentors argue that, in the interest of fairness, a full 30-days' notice should be required. The statutory language does not contemplate a minimum or fixed 30-day period. The minimum 15-day notice period is a proper exercise of administrative discretion, has proved workable, and will be retained.[2]

Most of the commentors objected to the requirement in the interim rules that pleadings which fall due on a weekend or a legal holiday must be filed on the prior business day (§ 1121.36(d)(2)). Upon reevaluation, with the limited exception noted below, we have decided to conform to our usual practice of extending filing due dates to the end of the next business day after a weekend or federal holiday. This will afford the parties the full time period provided for by the statute to prepare their pleading, and it should not materially impair our task of evaluating them. (*Cf.* the Commission's General Rules of Practice, 49 CFR 1100.19 (a) and (b)). However, we will require offers of financial assistance to be filed on or before the statutory due date.

An example will illustrate the necessity for the strict adherence to the statutory due date for financial assistance offers. The amended statute provides that an offer to subsidize or purchase a line for continued rail service has to be made within 10 days following publication of the Commission's determination that the public convenience and necessity require or permit abandonment or discontinuance of service. Correspondingly, within 15 days of that notice, the Commission has to evaluate the offer and determine whether to postpone issuance of a certificate. (See 49 U.S.C. 10905 (c) and (d)). The tenth day after the publication date could easily fall on the first day of a 3-day holiday weekend. If we were to consider as timely filed a pleading which arrived at the Commission on the first business day following the holiday weekend, 3 of the 5 days the Commission has to evaluate the offer will have elapsed, and we would be afforded only 2 days within which to make our decision. Obviously, a portion of that 2-day period would be lost to administrative details such as routing the document to the appropriate decisional body and arranging for service. In such circumstances, meaningful evaluation of that pleading would be impossible. While this hypothetical situation may represent the "worst case" scenario, it is nonetheless one which is reasonably likely to occur. The mere possibility of its occurrence justifies the requirement that offers of financial assistance be filed by the statutory due date, even if the due date falls on a weekend or holiday. The rules will be changed accordingly.

The interim rules (§ 1121.36(d)(1)) adopt the "modified mailbox rule" contained in our General Rules of Practice (49 CFR 1100.4(b)). This rule provides that the date of the receipt at the Commission and not the date of deposit in the mails is determinative: *Provided, however,* That if any document is mailed by certified, registered, or express mail postmarked at least 3 days prior to the due date, it will be accepted as timely filed. This rule will be retained.[3]

Finally, the interim rules require documents in abandonment or discontinuance proceedings to be filed directly with the Deputy Director of the Section of Finance (§ 1121.36(c)). Contrary to one commentor's assertion, this practice is not an attempt by the Commission "to foist its mail problems or internal rivalries upon the public." It merely represents a necessary step designed to expedite the decisional process in proceedings with extremely tight timeframes; it will be retained.

Protest Standards and Discretionary Investigations

International Mineral and Chemicals Corporation (IMCC) asserts that the Commission has an obligation to investigate all abandonment applications except where protests are frivolous, and that our final rules should so specify. We disagree. The Staggers Act significantly altered the public's participation in abandonment and discontinuance proceedings. The decision to investigate a protested abandonment application is now wholly within our discretion. In making the decision whether to investigate, we will consider all relevant factors on a case-by-case basis.[4] We see no reason for

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the **Federal Register** and as contained in the notice served by the Commission. Reference to the interim rules in this notice will be to those previously published in the **Federal Register**. Correspondingly, the final rules adopted here will be numbered in a manner consistent with the prior publication.

[2] Recently, we issued a notice in Ex Parte No. 274 (Sub-No. 2), *Abandonment of Rail Lines and Discontinuance of Service*, 46 FR 38519 (1981), correcting an inadvertant omission in 49 CFR 1121.30(a). Subsection (a) was not affected by our interim rules in this proceeding. Mistakenly however, the notice in the Sub-No. 2 proceeding also presented subsection (b) of § 1121.30 as it appeared prior to our interim abandonment regulations. The correct version of these regulations, as they appeared in our interim rules, is restated in the final rules.

[3] Parties relying on the "modified mailbox rule" may wish to inform us by telegram of the impending arrival of their pleadings. These telegrams should be addressed to the Section of Finance.

[4] *See, e.g.*, No. AB-3 (Sub-No. 25)F, *Missouri Pacific Railroad Company—Abandonment—*

Continued

establishing an inflexible standard. Furthermore, to do so would abdicate our responsibility to exercise some discretion and would frustrate Congressional intent on this matter.

In a joint comment, the State of Illinois and others object to the requirement that protests be verified (§ 1121.31), arguing that the rule is unnecessarily burdensome. Although we do not believe that this requirement is particularly burdensome, since obtaining verifications is no more difficult than locating a notary public,[5] it will be eliminated from the final rules. While we see no absolute necessity for retaining this requirement for protests, we emphasize that evidentiary presentations (as opposed to statements of position and allegations) must still be verified to ensure development of a reliable record. We further believe that the distinction made in the interim rules between comments and protests serves a useful purpose. The filing of a comment allows a person to participate in an abandonment proceeding without opposing it.

Notwithstanding the severe time constraints imposed in the new statute, we agree with the Association of American Railroads (AAR) that a 5-day period for reply to protests should be provided. Although this will reduce the time in which the Commission has to make its decision to investigate from 15 to 10 days, the replies will assist in this important determination. A 10-day period is sufficient for meaningful evaluation of the issues raised to determine if further evidence would be helpful.

Preclusion of Motions and Appellate Procedures

The AAR and other commentors object to the preclusion of motions to strike in rule 1121.36(d)(4)(iii). They claim the right to strike misleading, irrelevant, or improper evidence is a matter of due process. We believe, however, that we are capable of disregarding or giving little weight to such evidence where appropriate, and we will not hesitate to strike improper material on our own initiative. Nothing precludes parties from calling to our attention attempts to introduce new of misleading evidence, without filing a formal motion. As we indicated in our prior notice in this proceeding, the elimination of motions to strike is necessary because the short time allowed to complete investigations does not allow a sufficient period to entertain motions and their replies.

The AAR has pointed out an inadvertent omission in the interim rules. Section 1121.36(d)(5)(B)(ii) provides that oral hearing shall be for the primary purpose of cross-examination of witnesses filing verified statements pursuant to § 1121.36(b)(5)(i)(A). Since this latter section of the interim rules concerns only applicants' verified statements, the rules appear to deny applicants the opportunity to cross-examine protestants' witnesses. Of course, cross-examination of protestants' witnesses who have filed verified statements will also be allowed at hearing. The final rules clarify this point.

IMCC criticizes the restrictive appellate procedure adopted in the interim rules as violative of the Administrative Procedure Act and contrary to the intent of Congress. These rules substantially limited the permissible grounds for appeal and also eliminated the automatic stay that was previously obtained merely by filing an appeal.

The amended statute clearly states that the Commission has discretion to hear appeals from initial decisions following investigations (49 U.S.C. 10904(c)(3)). Although our prior notice stated that it is reasonable to extend this discretionary appellate review procedure to all decisions involving abandonments or discontinuances (§ 1121.36(e)), including those which are not protested and those which are not investigated, we have reevaluated this position.

The issue was brought into focus when a recent appeal was filed to an abandonment decision in a non-investigated proceeding. In a decision served May 28, 1981, we concluded that the statute does not allow appeals to decisions in non-investigated abandonment proceedings.[6]

We based this determination on the contrast between 49 U.S.C. 10904(c)(2) and (c)(3) governing non-investigated and investigated decisions, respectively.

Subsection (c)(2) declares that when no investigation is ordered in a *protested* proceeding we *shall* decide within 75 days of the filing of the application whether the public convenience and necessity requires or permits abandonment. Assuming the abandonment is granted, we *shall* issue a certificate within 90 days of the application's filing and that certificate *shall* be effective within 120 days of the application's filing. Thus, by the 120th day either the application must be denied or a certificate permitting abandonment be effective.

Conversely, subsection (c)(3) indicates that if an investigation is ordered an initial decision must be rendered within 165 days of the application's filing. That decision shall become final unless we act within 30 days to hear appeals. If the appeals are heard, a final decision shall be issued within 255 days of the application's filing.

Thus, it is clear that there is an opportunity for appeal from an initial decision *only* where an investigation has been conducted. The decision issued when no investigation is ordered is an administratively final decision.

Consequently, we must change the interim regulations. Although there is no opportunity to appeal *protested but not-investigated* decisions, parties may file petitions to reopen these proceedings after issuance of the administratively final decision. *See* 49 U.S.C. 10327(g). If a party wishes the Commission to act on its petition prior to the effective date of the abandonment certificate, it must file its petition no later than 15 days after the date the decision is served; replies will then be due by the 25th day after service (these time frames are identical to the ones established in the interim regulations for appeals from a decision in a non-investigated proceeding). Moreover, these petitions, to be considered, must allege in detail material error, new evidence, or substantially changed circumstances. If filed within the time frame provided, these petitions will be acted upon by the 120th day after the application was filed. In the event that a certificate is issued which permits abandonment or discontinuance to occur prior to 120th day, a party may petition to stay the certificate's effectiveness. These petitions, filed in conjunction with the previously discussed petition to reopen, may seek postponement of effectiveness of the certificate only until the statutory deadline of 120 days. We will address and dispose of the petition to reopen on or before the 120th day.

Similarly, we believe that Congress did not intend to allow appeals in any *non-protested* proceeding. The statute requires us to grant all non-protested abandonments. Therefore, we believe that a party cannot seek administrative review of a decision reached pursuant to

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Between Dearing and Dexter, KS (not printed), decided April 10, 1981; and No. AB-6 (Sub-No. 92)F, *Burlington Northern, Inc.—Abandonment—Between Hill City and Keystone, in Pennington County, SD* (not printed), decided April 23, 1981.

[5] Indeed, the verification requirement is satisfied even without a notary public if the person signing the protest provides a written declaration "under penalty of perjury" that the information contained in the protest is true and correct. 28 U.S.C. 1746.

[6] *See* No. AB-3 (Sub-No. 25), *Missouri Pacific Railroad Company—Abandonment—Between Dearing and Dexter, KS* (not printed), decided May 26, 1981.

49 U.S.C. 10904(b) by alleging substantive error. There is no substantive error, evidence, or circumstance that could justify reversal of a mandatory grant.[7]

While there is no opportunity to appeal non-protested proceedings, the final rules (§ 1121.36(e)(8)) will provide for petitions to vacate certificates issued in these proceedings. In the event of a procedural defect, such as the loss of a protest in the mail, timely filed protests not coming to the attention of the decisional body, the failure of the applicant to afford the public proper notice of its proposed abandonment, or fraud committed by the applicant, we will consider a petition to vacate the certificate and take whatever action is necessary to remedy the procedural defect.

As noted above, Congress did provide for appeals from the initial decision in investigated proceedings. However, it clearly removed the right of parties to an automatic appeal. We will not abuse our discretion by hearing all appeals. Instead, we intend to hear appeals only if they make a clear and convincing showing of general transportation importance, changed circumstances, new evidence, or material error.

An appeal seeking a finding of general transportation importance will only be heard if it states in detail the respects in which the proceeding involves important policy questions not recently addressed by us. If an appeal argues new evidence or changed circumstances, appellant must explain the manner in which the decision being appealed would be materially affected by those changed circumstances or new evidence, and why that information was not available and introduced earlier. Finally, a showing of material error requires proof that error has occurred and that correcting the error would result in a different conclusion.

Because an initial decision "becomes final within 30 days unless the Commission decides to hear appeals," 49 U.S.C. 10904(c)(3), we will issue a brief order, by the 30th day after service of the initial decision, indicating whether the appeal will be heard. By this means, the parties and the courts will know with certainty whether an initial abandonment decision became final despite the filing of an appeal.

The final rules have been altered to indicate that replies to appeals are not contemplated prior to the decision on whether to hear an appeal. Appeals are due on the 20th day after service of the initial decision. Although we would prefer to have the benefit of replies before deciding whether to consider an appeal, we do not believe it is wise to constrict further the time for preparing and submitting the appeals. Our decision to hear the appeal is not a decision to reverse the earlier decision or otherwise to act on the merits of the case, but is simply a determination that the appellant has shown good cause for reexamining some aspects of the earlier decision by a higher body within the Commission. Therefore, other parties are not seriously prejudiced by our making that decision without their replies. If we decide to hear an appeal, then other parties will be afforded 15 days from the date of service of that decision to file replies addressing the substance of the appeal. See § 1121.36(e)(3)(ii). With this additional time for preparation, the replies can be complete and more helpful.

There will be a limited exception to this discretionary appellate process for interlocutory appeals. The decision whether to investigate a particular proceeding will be made by the Director of the Office of Proceedings. We believe that appeals to these decisions should be handled as mandatory, rather than discretionary, appeals. Consequently, § 1121.36(e) will be modified to reflect that the usual rules for appeals to decisions of Commission employees acting under delegated authority (49 CFR 1011.7(b)(1)) will be applicable here. The effect of this modification is to reduce the time period within which such appeals must be filed from 15 to 10 days, to provide a 10-day period for filing replies, and to provide that the Chairman will act upon these appeals.

Under our discretionary appellate process, the mere filing of an appeal does not say the effect of a prior Commission action. However, if an appeal is heard it has the effect of a stay, since the initial decision cannot become final during the pendency of the appeal (until a final decision is made, we are precluded from issuing a certificate). Conversely, if we decide not to hear an appeal, there is no basis for a stay. Therefore, we will not entertain stay requests based on administrative appeals.

Nevertheless, we will entertain petitions to stay pending judicial review, as well as the previously discussed petitions to stay filed in conjunction with a petition to reopen a non-investigated proceeding. These petitions, to stay the effective date of the certificate, must be filed not less than 10 days prior to that date. Section 1121.36(e)(9) of the final rules governs stay petitions.

Additionally, a new subsection (e)(7) will be added to section 1121.36, dealing with certain other procedural aspects related to judicial review of our decisions. In conformance with our general appellate procedures (see 49 CFR 1100.98(c)(7)(i)), interested parties may initiate judicial review on the day the action of the Commission becomes final.[8] Also, where a petition for judicial review is filed with the courts, the Commission will act upon an administrative appeal or petition to reopen after advising the court of its pendency, unless action might interfere with the court's jurisdiction. This new subsection corresponds to our usual appellate procedures in rail proceedings (49 CFR 1100.98(c)(6)).

Offers of Financial Assistance

Our interim rules governing offers of financial assistance (§ 1121.38) attracted the most public comment. Before discussing these comments, however, we shall clarify one point which has caused confusion in proceedings under the interim rules.

The statute provides that offers of financial assistance must be filed and served no later than 10 days after publication in the **Federal Register** of a Commission finding that the present and future public convenience and necessity permit or require the proposed abandonment or discontinuance of service. 49 U.S.C. 109059(c). In those instances where the Commission decides to hear appeals from that initial determination, a subsequent decision upholding the earlier one will *not* give rise to a new period within which offers of financial assistance will be entertained. In these circumstances, notice of the subsequent decision will not be published. Where, however, a partial grant of authority is expanded on appeal, there will be a new publication of the expanded authority and an additional period for filing offers.

The public is encouraged to file their offers at the earliest practicable time. In those instances, however, where offers are filed prior to publication of the Commission's findings, it is incumbent upon offerors to inform both the abandoning carrier and us of their continuing interest within 10 days after the publication. If we are not informed of such continuing interest within the 10 day period, the original offer will be considered to have lapsed. With this

[7] *See* No. AB-55 (Sub-No. 50F) *Seaboard Coast Line Railroad Company—Abandonment—Between Palatka and Interlachen, FL* (not printed), decided June 29, 1981.

[8] *See* Ex Parte No. 55 (Sub-No. 45), *Appellate Procedures*, 132 M.C.C. 705 (served August 6, 1981) (amending 49 CFR 1100.98(c)(7)(i)).

additional notification requirement, early filed offers are acceptable, provided they contain all of the required information and comply with the procedural requirements of these regulations.

The financial assistance procedures will run concurrently with the discretionary appellate procedures. That is, our decision to hear an appeal in an abandonment or discontinuance proceeding does not postpone the financial assistance procedures set forth in the rules. A certificate will not be issued while an appeal is pending, however, even though issuance of the certificate would appear to be required by the interim rules governing the financial assistance procedures. Similarly, if the financial assistance process has not been concluded at the time the Commission has reached its final decision on appeals, the certificate will not be issued. The final rules will be modified by inclusion of these exceptions to the mandatory language concerning the issuance of the certificate. (Sections 1121.37(b) (1) and (2)(iii) and 1121.38 (k)(2), (l)(6), and (m)(2)).

It has come to our attention that, in certain limited instances, it may be necessary to toll the 10-day period for filing offers of financial assistance provided for in 49 U.S.C. 10905(c). Applicants are required to furnish prospective offerors promptly with specified information (49 U.S.C. 10905(b)). While this information is normally submitted in the application, it usually covers the entire line to be abandoned. A person contemplating a subsidy or purchase of only portion of the line, however, may require a "break out" of information on that segment only. Failure to produce the information could frustrate a potential offer. If an applicant does not respond to a *bona fide* request for this information, the period for filing offers will be postponed and correspondingly, issuance of a certificate of abandonment or discontinuance delayed. Although delay in issuance of a certificate may seem inconsistent with the mandatory language in 49 U.S.C. 10904, we believe that this approach is an appropriate way to reconcile that section of the Act with the financial assistance procedures of 49 U.S.C. 10905.

Section 1121.38(c)(1)(iii) of the final rules will establish a procedure whereby prospective offerors can file petitions to call to our attention applicant's failure to provide required information on request. These petitions must be filed with the Commission within 5 days after publication in the **Federal Register** of a Commission finding that the public convenience and necessity permit or require the proposed abandonment or discontinuance. The petition shall include either a copy of the request for information or an outline of the specific request. Five additional days for reply to these petitions will be provided. The Commission will act on the petitions within 15 days after publication.

The Wisconsin Department of Transportation (WISDOT) asks us to define the term "fair market value" in § 1121.38(1)(5), involving our determination of the price and terms of sale of a line. The fair market value is the "Constitutional minimum value" as defined by Congress in Section 401 of the Staggers Act (49 U.S.C. 10910(b)(2)) i.e., "not less than the net liquidation value of such line or the going concern value of such line, whichever is greater (but not including labor protection costs)." This definition will be incorporated into § 1121.38(1)(5); it will be incumbent upon the parties to present evidence as to net liquidation or going concern values.[9]

WISDOT also contends that § 1121.38(j)(2) of the interim rules is logically flawed. This section provides that if a carrier and a person offering to purchase a line enter into an agreement which will provide for continued rail service, the Commission will approve the transaction and dismiss the abandonment application. WISDOT believes that if the purchaser envisions continuation of service by a third party rail operator, the abandonment certificate should be issued. This position is incorrect. Section 1121.38(j)(2) mirrors the mandatory statutory language which provides that the Commission "shall" dismiss the concerned application (49 U.S.C. 10905(e)). The statute does not distinguish between continued service by the purchaser or a third party operator. We interpret this language to mean that if there is an agreement which provides for continuation of service by a third party operator, either immediately or in the reasonably foreseeable future, the abandonment or discontinuance application should be dismissed and the "transaction" (including both the transfer and operating agreement) approved, subject to the resale and discontinuance restrictions imposed by 49 U.S.C. 10905(f)(4). This position is consistent with prior Commission policy and practice. Abandonment authorization is not an essential prerequisite to another party's acquisition or operation proposal. *Cf. Prairie Trunk Railway--Acquisition and Operation*, 348 I.C.C. 832 (1977).

We note that if a line is purchased under the financial assistance procedures, no separate application under sections 10901 or 11343 for authority to acquire and to operate the line is required. Section 10905(e) requires us to approve a purchase transaction which will provide continued rail service, while section 10905(f)(4) prohibits any purchaser from discontinuing service for 2 years after the sale. We read these specific statutory provisions as removing a purchase under section 10905 from the requirements of section 10901 (if the purchaser is not a carrier) or section 11343 (if the purchaser is a carrier).

WISDOT also has difficulty reconciling the sections of the act dealing with offers of financial assistance and with sale of rail properties for public purpose (49 U.S.C. 10905 and 10906, respectively). The former section envisions either an uninterrupted service or a continuation of service within a reasonable period of time. Offers of financial assistance are meant to avoid abandonment and discontinuance. Those situations in which a purchaser of rail properties has no affirmative plans for continuation or resumption of service, but merely holds out the possibility of service at some unspecified future time, are not properly to be considered offers of financial assistance and do not fall within the scope of 49 U.S.C. 10905.

WISDOT also suggested that we amend the existing regulations at 49 CFR 1121.39 to establish a procedure whereby we would set terms for the sale of railroad property for public purposes. We do not have the statutory authority to do so. The abandonment provisions of the Staggers Act, which grant us authority to set the purchase price at which a carrier must sell rail property, represent an extraordinary grant of regulatory power to the Commission. In effect, this grant of authority from Congress makes the Commission a quasi-judicial condemnation tribunal. Broad condemnation powers cannot be ascribed to the "public use procedures" absent specific authorization by Congress.[10]

[9] In No. AB-1 (Sub-No. 70), *Chicago and North Western Transportation Co.—Abandonment—Between Ringwood, IL and Geneva, WI.* I.C.C. (served July 23, 1981), we noted that since the provisions of 49 U.S.C. 10905 generally affect only those lines which impose a burden on interstate commerce and hence have been found not currently viable economically, it is appropriate to consider only the net liquidation value of the line.

[10] *See*, No. AB-1 (Sub-No. 104), *Chicago and North Western Transportation Company—Abandonment—Between Clintonville and Eland, WI.* I.C.C. (served , 1981).

The AAR expresses concern that prospective State purchasers with condemnation powers might, after obtaining a Commission determination of the value of a line, then seek a more favorable valuation in a condemnation action in a local court. To prevent this, the AAR suggests that we require a financial assistance offer by the State to be accompanied by a non-refundable 25 percent payment of the estimated purchase price to the carrier. We are also asked to provide that this deposit could not be set off against any value subsequently determined in a condemnation proceeding. This suggestion cannot be reconciled with the statutory provision at 49 U.S.C. 10905(f)(2), which allows any offeror to withdraw his offer within 10 days of the Commission's determination. The AAR's non-refundable deposit requirement would effectively eliminate a State's statutory right to withdraw from the transaction. It would also impermissibly discriminate against States and State agencies.

Another matter of pressing concern to AAR is that the Commission will force a debtor-creditor relationship between an applicant and a proposed purchaser. AAR is concerned about the risk of a purchaser defaulting on its payment, and requests that § 1121.38(c)(2)(iii) be amended to require an offeror to establish by clear and convincing evidence that it has, or within a short reasonable time will have, the financial resources to pay cash or the cash equivalent for the net liquidation value of the line. ARR's concern is misplaced. We do not envision forcing a railroad to sell its assets in return for a security interest it is not willing to take. However, we see no reason for a formal rule on this point. Issues relating to the terms of sale are ones best considered on a case-by-case basis.

The AAR argues that the statutory language authorizing the Commission to establish a "binding" purchase price, 49 U.S.C. 10905(f)(2), does not mean that an aggrieved carrier does not have a right to appeal. We disagree and believe that Congress provided for finality. In 49 U.S.C. 10904(c)(3), for example, Congress provided for issuance of an initial decision subject to appeals, while section 10905(f)(2) refers only to a "decision of the Commission." Consequently, these determinations will not be considered proper subjects for administrative appeal. Because of the significance of the determination, however, it will be made by the entire Commission. A party's only remedy if dissatisfied with our decision is to seek judicial review in a United States Court of Appeals pursuant to 28 U.S.C. 2321(a) and 2342. Under these sections, the Court of Appeals has exclusive jurisdiction to review, enjoin, set aside, or determine the validity of all our final orders. Despite the strict time constraints governing arbitration, we will correct errors in mathematical calculations on our own or a party's motion.

Finally, the Commission cannot, as one commenter suggested, give lessors of property along the rail line the right of first refusal to buy the property. The Commission has been granted only limited jurisdiction to direct a sale; under 49 U.S.C. 10905 we can require a sale, which will *provide continued rail service.* In all other instances, the disposition of rail property after an effective certificate of abandonment has been exercised is a matter beyond the scope of the Commission's jurisdiction, and within a State's reserved jurisdiction. Questions of title to, and disposition of, the property are the matters subject to State law.

Retroactivity

WISDOT raises one last point. It maintains that, contrary to the position taken in our prior notice in this proceeding, Congress did not intend the new law to apply to abandonment applications filed prior to October 1, 1981. WISDOT quotes remarks of the Chairman of the House Subcommittee on Transportation and Commerce to support its position. *See* 126 Cong. Rec. H10,086 (daily ed. September 30, 1980) (remarks of Rep. Florio). The general rule, however, is that a court or agency "apply the law in effect at the time it renders its decision, unless doing so would result in manifest injustice or there is statutory direction or legislative history to the contrary." *Bradley* v. *Richmond School Board,* 416 U.S. 696, 711 (1974). Clearly there is no manifest injustice in applying the procedural reforms of the Staggers Act to applications filed before the effective date of the act; just as clearly, the legislation contains no provision directing its application only to abandonment proceedings commenced after its effectiveness.

The House bill preceding the Staggers Act contained a provision stating that all applications or proceedings pending before the Commission, other agencies, or the courts be determined as if the law had not been enacted. H.R. Rep. No. 96-1430, 96th Cong., 2d Sess. 142 (1980). That provision, however, was deleted in conference. In contrast, the conference retained provisions dictating that pending merger and rate bureau proceedings be conducted under existing law. Sections 228(e) and 706. Notwithstanding Representative Florio's floor statement, we believe that the language of section 706 gives the Commission discretion to determine the fairness and applicability of new or old laws to abandonments prior to the Staggers Act.

Environmental Impact

We conclude that this proceeding will not have a significant impact upon either the quality of the human environment, or the conservation of energy resources. This conclusion is premised in large part on the fact that each abandonment application decided under 49 U.S.C. 10903 must contain an independent environment finding.

Certification of Non-Applicability of Sections 603 and 604 of the Regulatory Flexibility Act, Pub. L. No. 96354

The changes made in our regulations by these final rules are required by the Staggers Act. These rules do not significantly change the compliance burdens on regulated carriers or on members of the public who may be interested in abandonment or discontinuance proceedings. While the new regulations change the time frames governing the processing of applications and the procedures for making offers of financial assistance, they allow all interested members of the public, including small entities, to participate equally in abandonment and discontinuance proceedings.

Conclusion

We certify that these final rules will not have a significant economic impact on a substantial number of small entities.

We remove the interim rules published at 45 FR 78141, November 25, 1980, and adopt the final rules set forth in the Appendix.

This action is taken under the authority of 49 U.S.C. 10321 and 10904 et seq., 5 U.S.C. 553.

Decided: August 26, 1981.

By the Commission, Chairman Taylor, Commissioners Gresham, Clapp, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1121—ABANDONMENT OF RAILROAD LINES AND DISCONTINUANCE OF SERVICE

The following sections of the Commission's regulations at 49 CFR Part 1121, "Abandonment of Railroad Lines

and Discontinuance of Service," are amended in the manner specified below.

1. Revise paragraph (b) of § 1121.30 as follows:

§ 1121.30 Notice of intent to abandon line or discontinue service.

* * * * *

(b) The posting and publication requirements of this section must be completed within the 30-day period prior to the actual filing of the application. Service must be completed at least 15 days, and not more than 30 days, prior to the actual filing date.

2. Revise § 1121.31 as follows:

§ 1121.31 Form of notice.

The notice of intent to abandon or to discontinue service shall be in the following form:

No. AB (Sub-No.)

Notice of Intent To Abandon or To Discontinue Service

(Name of Applicant) hereby gives notice that on or about (insert date application will be filed with the Commission) it intends to file with the Interstate Commerce Commission, Washington, D.C. 20423, an application for a certificate permitting the abandonment of (the discontinuance of service on) a line of railroad known as extending from railroad milepost near (station name) to (the end of line or rail milepost) near (station name) a distance of miles, in County(ies), State(s). The line for which the abandonment (or discontinuance) application will be filed includes the stations of (list all stations on the line in order of milepost number, indicating milepost location).

The reason(s) for the proposed abandonment (or discontinuance) is (are) (explain briefly and plainly why the proposed action is being undertaken by the applicant).

This line of railroad has appeared on the system diagram map in category 1 (§ 1121.20(b)(1)) since (insert date).

The interest of railroad employees will be protected by (specify the appropriate conditions).

Any interested person, in response to this notice, is entitled to file with the Interstate Commerce Commission written comments concerning the proposed abandonment (or discontinuance) or protests to it.

Protests to the proposed abandonment (or discontinuance) shall at a minimum contain:

(1) Identification of protestant including its name, address, and business;

(2) Statement of protestant's interest in the abandonment or discontinuance proceeding; whether protestant uses the involved service; and if it does not, information with respect to the group or public interest it represents;

(3) Specific reason(s) for opposing the abandonment (or discontinuance), including information with respect to protestant's reliance on the involved service, with allegations of fact supported by an affidavit of personal knowledge of the facts;

(4) Any rebuttal of information or material submitted by applicant; and

(5) Request for oral hearing and reasons therefor, if desired.

In addition, any commentor or protestant may provide a specific statement of position and summary of evidence with regard to any or all of the following:

(1) Intent to offer financial assistance;

(2) Environmental impact;

(3) Impact on rural and community development;

(4) Suitability of the properties for other public purposes; and

(5) Recommended provisions for protection of the interests of employees.

Written comments and protests will be considered by the Commission in determining whether an investigation is needed to assist in determining what disposition to make of the application. In the event an investigation is conducted, then the commenting party or protestant may participate in the proceeding as its interests may appear.

Those parties filing protests to the proposed abandonment (or discontinuance) should be prepared to participate actively in either oral hearings or via the submission of additional material in the form of verified statements. Parties seeking information concerning the filing of protests should refer to 49 CFR 1121.36.

Written comments and protests should indicate the proceeding designation No. AB (Sub-No.) and should be filed with the Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than (insert the date 30 days after the date applicant intends to file its application). Interested persons may file a written comment or protest with the Commission to become a party to this abandonment (or discontinuance) proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant (insert name, address, and phone number). The original and 2 copies of all comments or protests shall be filed with the Commission together with a certificate of service.

If no protests are *received* within 30 days after the application is filed, the Commission will grant the abandonment (or discontinuance) request and issue a certificate which permits the abandonment (or discontinuance) to occur within 75 days after the application is filed.

The line sought to be abandoned (or discontinued) will be available for subsidy or sale for continued rail use, if the Commission decides to permit the abandonment (or discontinuance), in accordance with applicable laws and regulations (49 U.S.C. 10905 and 49 CFR 1121.38). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is (insert name and business address).

Persons wishing further information concerning abandonment procedures may contact the Interstate Commerce Commission's Section of Finance, Office of Proceedings or the Commission's Rail Services Planning Office, or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1121.

A copy of the application will be available for public inspection on or after (insert date abandonment application is to be filed with Commission) at each agency station or terminal on the line proposed to be abandoned or discontinued (if there is no agency station on the line, the application shall be deposited at any agency station through which business for the line is received or forwarded) (insert name, address, location and business hours). The carrier shall furnish a copy of the application to any interested person proposing to file a protest or comment, upon request.

§ 1121.32 [Amended]

3. Remove paragraph (a)(5) of § 1121.32 and redesignate:

§ 1121.32(a)(6) as § 1121.32(a)(5)
§ 1121.32(a)(7) as § 1121.32(a)(6)
§ 1121.32(a)(8) as § 1121.32(a)(7)
§ 1121.32(a)(9) as § 1121.32(a)(8)

4. Revise §1121.36 as follows:

§ 1121.36 Participation in abandonment or discontinuance proceedings.

(a) (1) Interested persons may become parties to an abandonment or discontinuance proceeding by filing with the Commission written comments or protests. Protests to an abandonment or discontinuance shall, at a minimum, contain:

(i) Identification of protestant including its name, address, and business;

(ii) Statement of protestant's interest in the abandonment or discontinuance proceeding; whether protestant uses the involved service; and if it does not, information with respect to the group or public interest it represents;

(iii) Specific reason(s) for opposing the abandonment or discontinuance, including information with respect to protestant's reliance on the involved service, with allegations of fact supported by an affidavit of personal knowledge of the facts;

(iv) Any rebuttal of information or material submitted by applicant; and

(v) Request for oral hearing and reasons therefor, if desired.

(2) In addition, any commenter or protestant may provide a specific statement of position and summary of evidence with regard to any or all of the following:

(i) Intent to offer financial assistance;

(ii) Environmental impact;

(iii) Impact on rural and community development;

(iv) Suitability of the properties for other public purposes; and

(v) Recommended provisions for protection of the interests of employees.

(3) Written comments and protests will be considered by the Commission in all proceedings in determining whether

an investigation is needed to assist in determining what disposition to make of the application. In the event an investigation is conducted, then the commenting party or protestant may participate in the proceeding as its interests may appear. Those parties filing protests should be prepared to participate actively in either oral hearings or via the submission of additional material in the form of verified statements.

(b) *Employee or employee representative participation.* (1) In each abandonment or discontinuance proceeding in which the application is granted, employee protective conditions at least as beneficial to the interests of employees as the provisions established pursuant to 49 U.S.C. 11347 and pursuant to section 405 of the Rail Passenger Service Act (as those provisions have been interpreted by the Commission) shall be imposed; and

(2) Employees or their representatives may file comments or protest, but need not, since the Commission will impose in each proceeding the employee protection provisions set forth in paragraph (b)(1) of this section.

(c) *Filing and service of written comments, protests, and replies.* (1) Written comments and protests shall be filed with the Commission (Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423) within 30 days of the filing with the Commission of an abandonment or discontinuance application. The proposed date of filing of an abandonment or discontinuance application shall be included in the Notice of Intent required in §§ 1121.30–1121.31.

(2) An original and 2 copies of each written comment or protest shall be filed with the Commission.

(3) A copy of each written comment or protest shall be served on applicant or its representative at the time of filing with the Commission. Each filing shall contain a certificate of service.

(4) Replies to written comments and protests will be considered by the Commission provided they are filed and served within 5 days of the due date of the pleadings they address. An original and 2 copies of such replies shall be filed with the Commission.

(d) *Time limits.* (1) Pleadings, requests or other papers or documents (including any comments or protests and any appeal from a Commission decision) required or permitted to be filed under this part must be received for filing at the Commission's Offices at Washington, DC within the time limits, if any, for such filing. The date of receipt at the Commission and not the date of deposit in the mails is determinative, provided, however, that if such document is mailed by certified, registered, or express mail, postmarked at least 3 days prior to the due date, it will be accepted as timely filed.

(2) In computing any time period prescribed or allowed by this part, the day of the act, event, or defeult after which the designated period of time begins to run is not to be included.

(3) Any filing under this Part which falls due on a Saturday, Sunday, or a legal holiday in the District of Columbia, may be filed at the Commission by the end of the next day which is neither a Saturday, Sunday, nor a holiday, except as indicated in paragraph (d)(4) of this section. A half holiday shall not be considered as a holiday.

(4) Offers of financial assistance made pursuant to 49 U.S.C. 1121.38(c) must be filed on or before their statutory due date as computed in paragraph (d)(2) of this section, regardless of whether that date is a Saturday, Sunday, or a legal holiday in the District of Columbia.

(5) The Commission will reject any pleading filed after its due date unless good cause is shown why the pleading is filed late.

(6) Modified procedure: (i) If the Commission decides to institute an investigation under the modified procedure, the following time limits shall govern the submission of evidence:

(A) Applicant's initial verified statements due no later than 15 days after the date the decision instituting an investigation is served;

(B) Protestant's verified statements due no later than 40 days after the date the decision instituting an investigation is served; and

(C) Applicant's reply verified statements due no later than 55 days after the date the decision instituting an investigation is served.

(ii) Under the schedule established in paragraph (d)(6)(i) of this section, parties shall not be permitted to file motions to strike all or part of any evidence submitted.

(7) Oral Hearings: (i) If the Commission decides to institute an investigation through oral hearing, the oral hearing shall be for the primary purpose of cross examination of witnesses filing verified statements pursuant to paragraph (d)(7)(ii) of this section. Any direct testimony, other than applicant's rebuttal evidence, shall be received at the discretion of the hearing officer.

(ii) The following time limits shall govern the submission of written evidence prior to the commencement of the hearing:

(A) Applicant's initial verified statements due no later than 15 days after the date the decision instituting an investigation is served; and

(B) Protestant's verified statements due no later than 40 days after the date the decision instituting an investigation is served. Any rebuttal evidence by applicant shall be received in the form of testimony at the oral hearing.

(iii) Post hearing legal briefs shall be due 20 days after the close of the oral hearing, or at an earlier date if established at the hearing by the hearing officer.

(e) *Appellate procedures*—(1) *Scope of rule.* Except as specifically indicated below, these appellate procedures are to be followed in abandonment and discontinuance proceedings in lieu of the general procedures at 49 CFR 1100.98. Appeals to decisions not to institute an investigation in a particular abandonment or discontinuance proceeding will be governed by the rule set forth in 49 CFR 1011.7(b)(1), pertaining to appeals from decisions of employees under delegated authority. An original and 10 copies of all appeals, and replies to appeals, under this subsection should be filed with the Commission.

(2) *Appeals criteria.* (i) Appeals to the initial decision in non-protested proceedings or non-investigated (protested) proceedings will not be entertained. Those decisions are administratively final upon the date they are served.

(A) In a protested but not investigated proceeding, parties seeking further administrative action may file a petition to reopen the proceeding under paragraph (e)(6) of this section. If an abandonment or discontinuance is granted and a party wishes the Commission to consider a petition to reopen before the abandonment or discontinuance certificate becomes effective, it must file its petition within 15 days after the administratively final decision is served (together with any necessary request for a stay of the certificate's effectiveness). If a petition is received within that 15 day period, any replies to the petition must be filed no later than 25 days after the date the decision is served. The Commission will then announce whether it will grant the petition (and reopen the proceeding) by the 120th day after the application was filed (the last date upon which the certificate could become effective).

(B) In a proceeding that is not protested, since the Commission is required to authorize abandonment or discontinuance, the only subsequent pleadings permitted are petitions to

vacate the certificate filed under paragraph (e)(8) of this section.

(ii) In investigated proceedings, the Commission may hear appeals in its discretion, if it finds that either:

(A) The action (if taken by an administrative law judge, an employee board, or a division) involves a matter of general transportation importance, or

(B) The action would be affected materially because of new evidence, changed circumstances, or material error.

(3) *Time limits.* (i) Any appeal from the initial decision in an investigated proceeding shall be filed no later than 20 days after the date the initial decision is served.

(ii) The Commission will announce whether it will hear an appeal filed under paragraph (e)(3)(i) of this section within 30 days after the date the initial decision is served. If the Commission decides to hear the appeal, other parties will be afforded 15 days from the date of service of the decision to file replies to the appeals.

(4) *Form.* An appeal and any reply shall not exceed 30 pages in length, including the index of subject matter, argument, and appendices or other attachments.

(5) To the extent that an appeal requests further hearing, rehearing, reargument, or reconsideration, the appeal shall state in detail the nature of the relief requested and the reasons therefor. When a party seeks an opportunity to introduce evidence, the appeal must state briefly the evidence, explain why it is not cumulative, and explain why it was not previously adduced.

(6) Petitions to reopen administratively final actions: Except as provided for in paragraph (e)(2)(i)(B) of this section, a person may file a petition to reopen any administratively final action of the Commission. A petition to reopen shall state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances. An original and 10 copies of such petitions should be filed with the Commission.

(7) Judicial review: (i) Parties may seek judicial review of a Commission action in an abandonment or discontinuance proceeding on the day the action of the Commission becomes final.

(ii) If an appeal or a petition seeking reopening is filed under this section, before or after a petition seeking judicial review is filed with the courts, the Commission will act upon the appeal or petition after advising the court of its pendency unless action might interfere with the court's jurisdiction.

(8) Petitions to vacate certificates: In the event of procedural defects (such as the loss of a properly filed protest, the failure of the applicant to afford the public the requisite notice of its proposed abandonment, etc.) the Commission will entertain petitions to vacate certificates in these abandonment or discontinuance proceedings. An original and 10 copies of these petitions to vacate should be filed with the Commission.

(9) *Petitions to stay.* (i) The filing of an appeal shall not stay the effect of a prior action. An original and 10 copies of any petitions to stay should be filed with the Commission.

(ii) If an appeal is filed in an investigated proceeding, under paragraph (e)(2)(ii) of this section, a petition to stay is unnecessary and inappropriate. A certificate will not have been issued at that time and, if the Commission decides to hear the appeal, will not be issued until the Commission has acted upon the appeal. Therefore, there is no action requiring a stay.

(iii) A petition to reopen an administratively final action in a protested but non-investigated proceeding may be accompanied by a petition for a stay of the effectiveness of a certificate of abandonment or discontinuance, which permits the abandonment or discontinuance to occur prior to 120 days after the application is filed. The petitions may seek postponement of the effectiveness of the certificate only until the 120th day after the application is filed. The petitions may seek postponement of the effectiveness of the certificate only until the 120th day after the application is filed, when effectiveness is required by law (49 U.S.C. 10904(c)(2)).

(iv) A party may petition for a stay of the effectiveness of a certificate of abandonment or discontinuance pending a request for judicial review. The reasons for the desired relief shall be stated in the petition, and the petition shall be filed not less than 10 days prior to the effective date of the certificate. No reply need be filed. If a party elects to file a reply, the reply must reach the Commission no later than 5 days after the petition is filed.

5. Revise § 1121.37 as follows:

§ 1121.37 Commission determination and certification under 49 U.S.C. 10904.

(a) If no protests to an application are filed under § 1121.36, the Commission shall (1) find that the public convenience and necessity require or permit the abandonment or discontinuance, and (2) no later than 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.

(b) Upon receipt of a protest to an application under § 1121.36, the Commission shall, no later than 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

(1) If no investigation is instituted, the Commission shall issue a decision no later than 75 days after the date the application is filed. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance, it shall issue a certificate no later than 90 days after the application is filed permitting the abandonment or discontinuance to occur no later than 120 days after the application is filed (unless the financial assistance procedures provided for in § 1121.38 have not been concluded).

(2) If the Commission decides to institute an investigation, the investigation shall be completed no later than 135 days, and an initial decision issued no later than 165 days, after the date the application is filed.

(i) The initial decision following an investigation shall become the final decision of the Commission unless, during the 30 days following the initial decision, the Commission decides to hear appeals in accordance with the criteria set forth in § 1121.36(e)(2)(ii).

(ii) If an initial decision following an investigation is appealed, and considered by the Commission in its discretion, the Commission shall issue a final decision no later than 255 days after the date the application is filed.

(iii) Whenever the Commission finds, following an investigation, that the present or future public convenience and necessity require or permit the abandonment or discontinuance, the Commission will issue a certificate no later than 15 days following the final decision, permitting the abandonment or discontinuance to occur no later than 75 days following issuance of the final decision (unless the financial assistance procedures provided for in § 1121.38 have not been concluded).

(3) A copy of the decision instituting an investigation of an abandonment or discontinuance application shall be served on the carrier which owns or operates the line of railroad or its representative. Copies of the decision shall also be served by the Commission on all parties which filed written comments and on all persons upon

which copies of the application are required to be served under § 1121.34(c).

6. Revise § 1121.38 as follows:

§ 1121.38 Financial assistance procedures.

(a) An applicant for a certificate of abandonment or discontinuance shall provide promptly upon request to a party considering an offer of financial assistance and shall provide concurrently to the Commission the following:

(1) An estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

(2) Its most recent reports on the physical condition of that part of the line involved in the proposed abandonment or discontinuance; and

(3) Traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line.

(b) In any proceeding in which the Commission finds, after investigation or without investigation, that the present or future public convenience and necessity permit or require the proposed abandonment or discontinuance of rail service, the Commission will, concurrently with service of the decision, publish the findings in the **Federal Register** as notice to persons intending to offer financial assistance to assure continued rail service under 49 U.S.C. 10905 and pursuant to this section of the regulations.

(c) *Submission of offers of financial assistance.* (1) A prospective offeror shall serve any offer of assistance upon the carrier owning or operating the involved line and upon other parties to an abandonment or discontinuance proceeding. The offer shall also be filed concurrently with the Commission (Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423).

(i) An offer may be filed and served any time after the filing with the Commission of an abandonment or discontinuance application.

(ii) An offer must be filed and served no later than 10 days after publication in the **Federal Register** (as required in paragraph (b) of this section) of a Commission finding that the present or future public convenience and necessity permit or require the proposed abandonment or discontinuance of service. This filing and service is subject to the requirements set forth in § 1121.36(d) (1) and (3).

(iii) If, after a *bona fide* request, applicant has failed to provide a potential offeror promptly with the information required by 49 U.S.C. 10905(b) and not otherwise contained in the application, the Commission will entertain petitions to toll the normal 10-day period for submitting offers of financial assistance. These petitions must be filed with the Commission no later than 5 days after publication in the **Federal Register** (as required in paragraph (b) of this section and described in subsection (ii) of this paragraph). These petitions should include copies of the prior written request for information or an accurate outline of the specific information that was verbally requested. Replies to these petitions must be filed within 10 days after the publication. As with the offers (see § 1121.36(d)(4)), these petitions and replies must be filed on or before their actual due date. The Commission will decide whether to toll the 10-day period for submitting offers within 15 days after publication.

(2) The offer as filed shall contain:

(i) An offer of financial assistance accompanied by a Proposed Subsidy Payment in the form prescribed in § 1121.46 or an offer to acquire all or a portion of the line accompanied by a detailed statement of the proposed acquisition cost and proposal for continued operations;

(ii) A resolution, authorization, or other evidence demonstrating that the offeror has, or within a reasonable time will have, the authority to execute and fulfill an agreement to subsidize or to acquire and operate the line;

(iii) Information demonstrating that the offeror has, or within a reasonable time will have, the financial resources to subsidize or acquire the line and otherwise to fulfill its contractual obligations; and

(iv) Information demonstrating that the financial assistance offered is likely to cover the difference between the revenues attributable to an avoidable costs of the line, plus a reasonable return on the value of the line, or the cost of acquisition and the proposed continued operation of the line;

(v) If the offer to subsidize or purchase the line is less than the carrier's estimate provided under paragraph (a)(1) of this section, the offeror shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

(3) If the offeror is not a government entity it shall also submit:

(i) A current, detailed balance sheet showing its financial condition as to the latest date available (not more than 90 days prior to the filing of the offer);

(ii) A statement of revenues, expenses, and net income for the current portion of the calendar year or offeror's fiscal year and statements for the two immediately preceding calendar or fiscal years or if not available, a statement from a bank or other financial institution attesting to the person's financial capability to discharge its obligations; and

(iii) Such additional information which, in the opinion of the offeror, is necessary or appropriate to support a finding that it is financially responsible.

(d) *Proposed subsidy payment.* (1) An offeror of financial assistance for all, or a portion, of a line may formulate an offer of subsidy predicated upon the owning or operating carrier's base year net avoidable costs and reasonable rate of return or upon the carrier's projected subsidy year Estimated Subsidy Payment, as submitted in its abandonment or discontinuance application under § 1121.32(d).

(2) Alternatively, an offeror may compute its own Proposed Subsidy Payment using the methodology and form described in Subpart D, the traffic, revenue, and other data contained in the abandonment or discontinuance application, and other evidence of record in the abandonment or discontinuance proceeding.

(e) *Proposed acquisiton cost.* (1) An offeror of financial assistance may also make an offer to acquire all or a portion of the line to be abandoned.

(2) In formulating its acquisition offer, an offeror may either accept the carrier's valuation of the properties, as submitted in its abandonment application under § 1121.32(d), or may have the properties appraised by a qualified and certified appraiser and may use either the valuation or the appraisal as its acquisition offer.

(3) An acquisition offer shall include a detailed statement of all items making up the offer, including a price certain and all terms and conditions.

(4) An acquisition offer shall include a detailed statement of the manner in which operations will be continued over the line after acquisition by the offeror, including, if applicable, a proposed operating agreement whereby the owning or operating carrier or another carrier will perform the operations.

(f) Upon receipt by the carrier of a written comment under § 1121.36 indicating an intent to offer financial assistance or upon receipt by the carrier of an actual offer of financial assistance, whichever occurs earlier, the carrier shall make available to the commenting party or offeror the records, accounts, appraisals, working papers, and other

documents used in preparing Exhibit I (§ 1121.46). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

(g) *Commission's 15-day determination under 49 U.S.C. 10905.* If within 15 days after publication in the Federal Register of its finding that the abandonment or discontinuance should be permitted, as provided in § 1121.38(b), the Commission finds, consistent with 49 U.S.C. 10905, that a fiancially responsible person has offered assistance which is likely to cover:

(1) The difference between the revenues attributable to the line and the avoidable cost of providing freight service on the line plus a reasonable return on the value of the line, or

(2) The acquisition cost of all or any portion of the line, then the Commission shall postpone the issuance of a certificate, or, if a certificate has been issued, postpone the effective date of the certificate, in accordance with paragraphs (i) and (k) of this section. The Commission shall determine whether the criteria in this paragraph have been met by each offeror if more than one offer is made (see paragraph (m) of this section). However, if the time for filing an offer has been tolled under § 1121.38(c)(1)(iii), the time for the Commission's determination under this section will be extended to five days after an offer has been filed.

(h) *Modified estimated subsidy payment.* Offerors may request, and carriers shall provide, an estimated subsidy payment reflecting operations of less than the entire line.

(i) *Negotiations.* (1) The carrier and the offeror are encouraged to negotiate an agreement for subsidy or acquisition before the issuance by the Commission of a final decision in an abandonment or discontinuance proceeding. The parties may agree to a final Estimated Subsidy Payment or acquisition price which varies from that contained in the application or in the offer, taking into account such factors as rate increases, changes in traffic level, and maintenance necessary to comply with minimum Federal Railroad Administration Class I safety standards, as projected for the subsidy year. The parties may also agree to provisions which modify the standards established under Subpart D of this part.

(2) When an agreement is reached, the parties shall promptly serve a verified copy on the Commission and on all parties to the abandonment or discontinuance proceedings.

(3) The Commission shall not consider an offer of financial assistance or any resulting agreement in making its initial finding on the merits of the abandonment or discontinuance application.

(j) *Agreement on financial assistance.* (1) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate, or, if the certificate has been issued, the effective date of the certificate, for so long as the agreement, or an extension or modification of the agreement, is in effect.

(2) If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission will approve the transaction and dismiss the application for abandonment or discontinuance. Commission approval is not required under 49 U.S.C. 10901 or 11343 for the parties to consummate the transaction and for the purchaser to institute service.

(k) *Failure to reach agreement on financial assistance.* (1) If the carrier and a financially responsible person (including a government authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation.

(2) If no agreement is reached within 30 days after the offer of subsidy or purchase is made, and neither party requests the Commission to establish the conditions and amount of compensation during that same period, the Commission will issue a certificate authorizing the abandonment or discontinuance no later than 50 days after notice is published under paragraph (b) of this section (unless an appeal is being heard pursuant to § 1121.36(e)). Such certificate will be effective on the date of issuance. If a certificate had already been issued, and the effective date postponed by the Commission while the parties negotiated the offer of subsidy or purchase, the certificate will be effective 50 days after the date the notice is published under paragraph (b) of this section (unless an appeal is being heard pursuant to § 1121.36(e)).

(l) *Requests to establish conditions and compensation for financial assistance.* (1) If the Commission is requested to establish the conditions and compensation for financial assistance in accordance with paragraph (k) of this section, the Commission will issue its decision on the request no later than 60 days after the request is filed with the Commission and served concurrently on all parties.

(2) Because the applicant may receive multiple offers of financial assistance (see paragraph (m) of this section), no request to establish conditions and compensation shall be permitted prior to applicant's selection of the offeror with whom it wishes to transact business.

(3) Any party filing a request with the Commission to establish conditions and compensation for financial assistance shall provide reasons why its estimates are correct and why the other negotiating party's estimates are incorrect; points of agreement and points of disagreement between the negotiating parties; and evidence substantiating these allegations.

(4) Where subsidy has been offered, and no agreement has been reached, the Commission will determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line.

(5) Where an offer of purchase has been made in order to continue rail service on the line, and no agreement has been reached, the Commission will determine the price and other terms of sale. In no case will the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed by the parties, all facilities on the line or portion necessary to provide effective transportation services). Fair market value equals Constitutional minimum value (which is not less than net liquidation value of the line, or the going concern value of line, whichever is greater, computed without regard to any labor protection costs).

(6) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw its offer no later than 10 days after the date the Commission's decision is served, by notifying, in writing, the Commission, the applicant, and all other parties to the proceeding. If the offeror does withdraw its offer within this time, the Commission shall approve the transaction and issue a certificate authorizing the abandonment or discontinuance no later than 20 days after the date the decision on the request for financial assistance is served, unless other offers are being considered pursuant to paragraph (m) of this section (and unless an appeal is being heard pursuant to § 1121.36(e)).

(m) *Multiple offers of financial assistance.* (1) If an applicant receives more than one offer to purchase or subsidize the line, the applicant shall

select the offeror with whom it wishes to transact business. Applicant shall make its selection known to the Commission and all parties, in writing, no later than 25 days after the date the notice is published pursuant to paragraph (b) of this section.

(2) When the applicant has received multiple offers of financial assistance, and has selected the offeror with whom it wishes to transact business, the negotiating parties shall complete the sale or subsidy agreement or request the Commission to establish the conditions and amount of compensation no later than 40 days after the date notice is published pursuant to paragraph (b) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request the Commission to establish the conditions and amount of compensation no later than 50 days after the date notice is published pursuant to paragraph (b) of this section. If no request by any other offeror is made, the Commission shall issue a certificate authorizing the abandonment or discontinuance no later than 60 days after the date notice is published pursuant to paragraph (b) of this section (unless an appeal is being heard pursuant to § 1121.36(e)).

(3) When the Commission has established the conditions and amount of compensation, and the original offer has been withdrawn pursuant to paragraph (l)(6) of this section, any other offeror may accept the Commission's decision no later than 20 days after the date the decision on the request is served. The Commission will require the applicant carrier to enter into a sale or subsidy agreement with the subsequent offeror, if the sale or subsidy agreement incorporates the Commission's decision.

(n) *Disposition after sale.* No purchaser of a line or portion of line sold under this section may transfer or discontinue service on the line prior to the end of the second year after consummation of the sale. Nor may the purchaser transfer the line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

(o) *Discontinuance of subsidy.* Any subsidy provided under this section may be discontinued by giving at least 60 days notice to the applicant and other parties to the proceeding. Unless, within the 60-day notice period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was to be discontinued, the Commission will, at the carrier's request, issue a certificate authorizing the abandonment or discontinuance of service on the line no later than 10 days after the date the carrier's request is filed with the Commission and served by the carrier on all parties.

(p) *Default on agreement.* In the event any party to a financial assistance agreement defaults on the obligations thereunder, then any party to the agreement shall promptly inform the Commission. Upon notification the Commission will take such action as it may deem appropriate.

[FR Doc. 81-26540 Filed 9-10-81; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Tuna Fisheries; Change in Catch Rate

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Determination pursuant to final rule; notice of change in catch rate.

SUMMARY: The catch rate for giant Atlantic bluefin tuna in the General Category, Northern Area, is changed from three to four fish per day per vessel. Since the catch rate for giant Atlantic bluefin tuna as of September 7, 1981, is below 60 percent of the allowable take, the regulations governing this fishery require this change. The increased daily catch rate will provide handgear fishermen a better opportunity to harvest the quota.

EFFECTIVE DATE: September 10, 1981 until December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Jerome, Jr., National Marine Fisheries Service, Northeast Region, State Fish Pier, Gloucester, MA 01930, Tel: 617-281-3600, ext. 325.

SUPPLEMENTARY INFORMATION: Final regulations governing the Atlantic bluefin tuna fishery were published on June 13, 1980 (45 FR 40118). The regulations require the Assistant Administrator for Fisheries, NOAA, to reassess the daily catch rate for giant Atlantic bluefin tuna based on specified criteria. Section 285.32(b)(1) provides: "On or about September 7, the Assistant Administrator will review dealer and buy-boat reports to determine the total catch of giant bluefin tuna. If the Assistant Administrator determines that 85 percent or more of the quota of giant bluefin is caught, an allowable catch of one giant bluefin tuna per day per vessel will be continued or reestablished. If the Assistant Administrator determines that 70 or more percent and less than 85 percent of the quota has been caught, the allowable catch will be set at two giant bluefin tuna per day per vessel. If more than 60 and less than 70 percent of the quota has been caught, the allowable catch will be set at three giant tuna per day per vessel. If the Assistant Administrator determines that 60 percent or less of the quota has been caught, the allowable catch will be increased to four giant tuna per day per vessel."

The Assistant Administrator has determined that the catch of giant Atlantic bluefin tuna in the General Category, Northern Area, is approximately 925 fish. Since this number is less than 60 percent of the total quota, the daily catch rate of giant Atlantic bluefin tuna will be increased from three to four fish per day per vessel on September 10, 1981. This catch rate will remain in effect until December 31, 1981, or until the quota is reached, whichever is sooner. The change in the daily catch for giant Atlantic bluefin tuna does not apply to those vessels registered in the Charter or Harpoon Boat Categories in the Northern Area, or those vessels permitted to take giant Atlantic bluefin tuna in the Southern Area with gear other than purse seines.

Notice of the change has been provided to all dealers and vessel operators permitted by NOAA to operate in the Atlantic bluefin tuna fishery.

This notice implements a provision required by § 285.32(b)(1) of the final regulations. The impacts of this in-season adjustment of the daily catch rate on the participants in the fishery were considered in the design of the final regulations.

(Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971h)

Dated: September 4, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-26663 Filed 9-10-81; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 176
Friday, September 11, 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

Correction

In FR Doc. 81-25955, appearing in the issue of Friday, September 4, 1981, at page 44452, make the following changes:

1. On page 44452, in the second column, change the first word in the second line to read "decrease".

2. On page 44452, in the third column, first full paragraph, ninth line, "nutrition" should read "nutrients".

3. On page 44453, in the third column, second paragraph, third and fourth lines from the bottom, the parentheses should be quotation marks.

4. On page 44456, in the first column, the sixth line in the third paragraph, change "ot" to read "to".

5. On page 44463, in § 210.10(g)(2), the 11th line should read "food or cheese spread of appropriate".

6. On page 44468, in § 226.20(f), the last sentence should read "The statement must specify an alternate food or foods."

7. On page 44468, in § 226.20(h), the 5th line should read "of the Northern Mariana Islands,".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Parts 1011, 1046, and 1098

[Docket Nos. AO-251-A23, AO-123-A48, and AO-184-A43]

Milk in Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tenn., Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by a handler and two cooperative associations to amend the Tennessee Valley, Louisville-Lexington-Evansville, and Nashville, Tennessee, Federal milk marketing orders. Certain proposals would amend the producer and pool plant definitions of the Louisville order, change the Nashville out-of-area plant location adjustments for handlers, and allow handlers under the Nashville order to make payments for milk directly to nonmember producers. Other proposals would amend the provisions for diverting milk from plants regulated by the Nashville and Tennessee Valley orders, and would change the producer location adjustments of the Louisville and Nashville orders with respect to diverted milk.

DATE: The hearing will convene October 6, 1981.

ADDRESS: The hearing will be held at the Ramada Inn, 9700 Blue Grass Parkway, I-64 at Hurstbourne Lane, Louisville, Kentucky, beginning at 9:30 a.m. local time.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-5443.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Ramada Inn, 9700 Blue Grass Parkway, I-64 at Hurstbourne Lane, Louisville, Kentucky, beginning at 9:30 a.m., local time, on Tuesday, October 6, 1981, with respect to proposed amendments to the tentative marketing agreement and to the orders regulating the marketing of milk in the Tennessee Valley, Louisville-Lexington-Evansville, and Nashville, Tennessee, marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in each of the aforesaid specified marketing areas which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Beginning January 1, 1981, actions under the Federal milk order program became subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Proposal No. 4 listed below, which would amend the Louisville order, would lessen the number of days on which a producer must deliver his milk to a pool plant in order for his milk to be eligible during certain months for diversion for nonpool plants. Proponent indicated that one effect of this proposal would be the removal of any practical limit on the amount of milk that could be diverted. Although proponent suggested that some type of diversion limit based on a percentage of a handler's receipts probably should be considered at the hearing, no proposal in this regard was offered. Notice is hereby given that testimony may be offered on whether the Louisville order should include a provision to limit diversions to nonpool plants to a greater degree than would be provided by current order provisions if this proposal is adopted.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

Proposed by Dairymen, Inc.

Proposal No. 1

§ 1011.12 [Amended]

1. Revise § 1011.12(b)(4) by inserting ahead of the semicolon the words "except as provided for in § 1011.13(c)(9)".

2. Add a new subparagraph (c)(9) to § 1011.13 as follows:

§ 1011.13 Producer milk.

* * * * *

(c) * * *

(9) Diversions by the operator of a pool plant to an other order plant (regulated as a "distributing" or "city" plant under such other order) in any month may not exceed 25 percent of the total quantity of milk for which such pool plant operator was the reporting handler during the preceding month, nor, with respect to any producer whose milk is so diverted an amount in excess of the volume of such producer's milk which is physically received at pool plants during the month.

§ 1011.42 [Amended]

3. Amend § 1011.42(b)(2) by inserting the words "or diverted" after the word "transferred".

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

Proposed by Kraft, Inc.

Proposal No. 2

Amend § 1046.12 by adding a new paragraph (b)(5) as follows:

§ 1046.12 Producer.

* * * * *

(b) * * *

(5) A dairy farmer with respect to milk caused to be moved from this farm to a pool plant under this order by a handler under another Federal order if all of the milk so received is considered as a receipt from a producer under the provisions of the other Federal order.

Proposal No. 3

Revise § 1046.7(b) to read as follows:

§ 1046.7 Pool plant.

* * * * *

(b) A country plant during any of the months of September through February from which not less than 50 percent, and during other months not less than 40 percent, of milk from persons described in § 1046.12(a)(1) and from handlers described in § 1046.9(c) that is physically received at such plant (except by diversion from other plants), or diverted therefrom pursuant to § 1046.13, is shipped to and received at a city plant(s) in the form of milk or skim milk. The operator of a county plant may include milk diverted, pursuant to § 1046.13(b), from such plant to a city plant as qualifying shipments in meeting up to one-half of the shipping percentage(s) specified in this paragraph.

Proposal No. 4

§ 1046.13 [Amended]

Amend § 1046.13 removing paragraph (c)(3).

Proposed by Dairymen, Inc.

Proposal No. 5

§ 1046.7 [Amended]

Amend § 1046.7 by removing (b) and (c).

Proposal No. 6

Revise § 1046.75(a) to read as follows:

§ 1046.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a plant shall be adjusted as follows:

(1) For milk physically received at a pool plant under this or any other order issued pursuant to the Act, such price shall be adjusted at the rates set forth in § 1046.52(a); or

(2) For milk physically received at a plant other than one described in paragraph (a)(1) of this section, such price shall be the price applicable at the location of the pool plant from which diverted less 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is more than 50 miles from the pool plant from which diverted.

* * * * *

PART 1098—MILK IN NASHVILLE, TENN., MARKETING AREA

Proposed by Kraft, Inc.

Proposal No. 7

Make the following changes in the order to allow for diversions between pool plants and to other order plants for limited Class I use:

§ 1098.7 [Amended]

1. Amend § 1098.7(a) by adding the words "pool or" in the eighth line ahead of the word "nonpool".

2. Amend § 1098.7(b) by adding the words "pool or" ahead of the words "nonpool plant pursuant to § 1098.12".

§ 1098.12 [Amended]

3. Amend § 1098.12(b)(3) by inserting the words "except as provided for in § 1098.13(b)(5)" ahead of the semicolon.

§ 1098.13 [Amended]

4. Amend § 1098.13 as follows:

(i) Amend paragraph (a) by inserting the parenthetical phrase "(excluding such milk that is diverted from another pool plant)" after the words "dairy farmer".

(ii) Revise paragraph (b) to read as follows:

"(b) Diverted by the operator of a pool plant or a cooperative association from a pool plant to another pool plant without limit during the month, or to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

"(1) Such milk shall be accounted for as received by the diverting handler at the location of the plant to which diverted;

"(2) * * *

"(3) * * *

"(4) * * *

"(5) Diversions by the operator of a pool plant to an other order plant (regulated as a "distributing" or "city" plant under such other order) in any month may not exceed 245 percent of the total quantity of milk for which such pool plant operator was the reporting handler during the preceding month, nor, with respect to any producer whose milk is so diverted an amount in excess of the volume of such producer's milk which is physically received at pool plants during the month."

§ 1098.41 [Amended]

5. Amend § 1098.41(b)(2) by inserting the words "and in milk diverted to such plant by another pool plant" after the phrase "a handler described in § 1098.9(c)".

6. Revise § 1098.42 to read as follows:

§ 1098.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat tranferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such tranfers of diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or

divertee plant after the computations pursuant to § 1098.44(a)(12) and the corresponding step of § 1098.44(b);

(2) If the transferor-plant or diverting plant received during the month other source milk to be allocated pursuant to § 1098.44(a)(7) or the corresponding step of § 1098.44(b) the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or diverting handler received during the month other source milk to be allocated pursuant to § 1098.44(a)(11) or (12) or the corresponding steps of § 1098.44(b), the skim milk or butterfat so tranferred or diverted up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classifed as Class I milk to a greater extent than would be the case if the other source milk had been received at the tranferee or divertee plant.

(b) *Tranfers and diversions to other order plants.* Skim milk or butterfat tranferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classifed in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraphs (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If tranferred or diverted in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers and diversions in bulk form shall be classified pursuant to the allocation provisions of the other order, or as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order.

* * * * *

Proposal No. 8

Revise § 1098.52(a) to read as follows:

§ 1098.52 Plant location adjustments for handlers.

(a) For milk received from producers or from a handler described in § 1098.9(c) at a plant located outside the State of Tennessee and more than 50 miles from the State Capitol in Nashville by the shortest hard-surfaced highway distance determined by the market administrator and classified as Class I milk (subject to the limitations pursuant to paragraph (b) of this section), the Class I price shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction that such plant is more than 70 miles from the State Capitol, except for such milk that is physically received at plants located:

(1) In the Kentucky counties of Bell, Breathitt, Clay, Harlan, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Perry and Whitley, no location adjustment shall apply.

(2) In Kentucky counties not listed in (a)(1) of this section and in the Indiana counties of Clark, Crawford, Daviess, Dubois, Floyd, Gibson, Harrison, Knox, Martin, Orange, Perry, Pike, Posey, Spencer, Vanderburgh, Warrick, and Washington, the location adjustment shall be minus 15 cents.

(3) In any area not specifically identified in (a) (1) and (2) of this section which is east of the Mississippi River and south of the southern boundary of Tennessee or the northern boundary of South Carolina, no location adjustment shall apply.

* * * * *

Proposal No. 9

§§ 1098.71 and 1098.73 [Amended.]

Amend §§ 1098.71 and 1098.73 to provide handlers the option to pay nonmember producers directly on or before the date payment would otherwise be made by the market administrator.

Proposal No. 10

Revise § 1098.7(a) to read as follows:

§ 1098.7 Pool plant.

* * * * *

(a) A distributing plant that has Class I utilization during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted regulatory agency for fluid consumption that are physically received at such plant or diverted as producer milk to a pool or nonpool plant pursuant to § 1098.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total disposition of fluid milk products, except filled milk, during the month.

* * * * *

Proposed by Dairymen, Inc.

Proposal No. 11

Revise § 1098.13(b) (2) through (7) to read as follows:

§ 1098.13 Producer milk.

* * * * *

(b) * * *

(2) In any month of March through July, not less than four days production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) In any month of August through February, not less than ten days production of the producer whose milk is diverted is physically received at a pool plant during the month;

(4) In any month of August through February, the total quantity of milk so diverted during the month by a cooperative association shall not exceed one-third of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(5) In any month of August through February, the operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (b)(4) of this Section. The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such plant during the month that is eligible to be diverted by the plant operator.

(6) To the extent that it would result in nonpool status for the pool plant for which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk; and

(7) The cooperative association shall designate the dairy farmer deliveries that are not producer milk pursuant to paragraph (b)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant(s) shall be producer milk.

Proposal No. 12

Revise § 1098.75(a) to read as follows:

§ 1098.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1098.73(b), the uniform price and the uniform price for base milk pursuant to § 1098.61 for producer milk received at a plant shall be adjusted as follows:

(1) For milk physically received at a pool plant under this or any other order issued pursuant to the Act, such prices shall be adjusted at the rates set froth in § 1098.52(a); or

(2) For milk physically received at a plant other than one described in (a)(1), such prices shall be the prices applicable at the location of the pool plant from which diverted less 1.5 cents per hundredweight for each 10 miles of fraction thereof that such plant is more than 50 miles from the pool plant from which diverted.

* * * * *

Proposed by National Farmers Organization

Proposal No. 13

§ 1098.75 [Amended]

Amend § 1098.75 to provide that if 65 percent or more of a producer's milk is delivered to a plant or plants at which the same rate is applicable, such rate shall be applicable to all deliveries of such producer during the month regardless of point of delivery.

PARTS 1011, 1046, AND 1098—[AMENDED]

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 14

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the market administrator, Joseph E. Bobo, P.O. Box 18030, Louisville, Kentucky 40218 or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Tennessee Valley, Louisville-Lexington-Evansville and Nashville marketing areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C. on September 4, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-26570 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service [1]

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Frozen Cauliflower

Corrections

In FR Doc. 81-23566 appearing at page 41077 in the issue of Friday, August 14, 1981 and corrected on page 43431 in the issue of Friday, August 28, 1981, make the following change:

§ 2852.727 [Corrected]

On page 43431, first column, correction numbered 3 § 2852.727, Table I, second column, third entry ("Seriously"), the "X" should be removed from "Major" and placed under "Severe".

BILLING CODE 1505-01-M

Agricultural Marketing Service [1]

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Canned Celery; [2] Proposed Establishment

Correction

In FR Doc. 81-24241 appearing on page 42487 in the issue of Friday, August 21, 1981, make the following correction.

On page 42489, in the table for § 2852.6578, change "millimeter" to "m/m" wherever it appears.

BILLING CODE 1505-01-M

[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.

[1] The Commodity Services Program . . . .

[2] Compliance with the provisions . . . .

Agricultural Marketing Service [1]

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Orange 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 Orange Juice. The proposed rule was developed by the United States Department of Agriculture (USDA) at the request of the citrus industry. Its effect would be to: (1) Improve the standards by including grade standards for reduced acid frozen concentrated orange juice; (2) combine all orange juice standards into a single format with easy-to-read tables; (3) replace dual grade nomenclature with single letter grade designation; (4) change the maximum Brix/acid ratio requirement for "Grade A" concentrated orange juice for manufacturing and for "Grade A" canned concentrated orange juice; and (5) allow for optional use of electronic colorimetry to provide objective measurement of color reduced acid frozen concentrated orange juice.

DATE: Comments must be received on or before July 30, 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(s) of this issue of the Federal Register and will be made available for public inspection of the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Jennings, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-7913.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator,

[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 the applicable State laws and regulations.

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 it reflects current marketing practices.

The Food and Drug Administration (FDA) established on February 26, 1980 (45 FR 12414) to become effective July 1, 1981, Standards of Identity for Reduced Acid Frozen Concentrated Orange Juice. This action was based on a petition submitted by the Coca-Cola Company, Foods Division, P.O. Box 2079, Houston, Texas 77001.

Currently, there are no voluntary USDA grade standards for reduced acid frozen concentrated orange juice. This proposed rule would include requirements for grades of reduced acid frozen concentrated orange juice.

Reducing the acid of orange juice changes the flavor just as the flavor of orange juice is changed when a nutritive or artificial sweetener is added. In both cases the ratio of the solids to acid has increased, resulting in a sweeter tasting juice.

The acidity of orange juice is reduced by anionic (negatively charged ions) exchange resins. A technically complex process, ion exchange depends upon the naturally occurring potassium content of orange juice. As the electric charge is exchanged between potassium ions (positive charge) and other chemical components of orange juice, the acidity is reduced. Nutritive carbohydrate sweeteners may not be used since sugar would accomplish essentially the same process as the ion exchange—increase the ratio between carbohydrates and acid—and would be deceiving to the consumer who bought reduced acid orange juice under the premise of "no sugar added."

The term "acid" is used to express the percent, by weight, of anhydrous (free from water) citric acid. The method used to test for acidity is a visual color change, or an equivalent value on a potentiometer, reached when the acidity is neutralized by a basic (sodium hydroxide) solution. The accuracy of the test for acidity is important because the ratio of Brix (carbohydrates) to acid is a parameter of the minimum FDA Standards of Identity for Reduced Acid Frozen Concentrated Orange Juice.

The term "Brix" is used to express the percent, by weight, of soluble orange solids (carbohydrates) in orange juice. The test to determine Brix is rapid and traditionally has been accomplished by refractometry (passing of light through a prism). When a sugar solution is placed upon a prism, and light is passed through the solution, the degree of refraction (bending) is directly related to the percent of soluble orange solids. Industry pricing or orange juice is based on the soluble solids content.

The term "Brix-acid ratio" is used to express the relationship of sweetness to acidity. The ratio is determined by dividing the percent, by weight, anhydrous citric acid into the Brix. A low Brix-acid ratio, such as 12 to 1, indicates a sour tasting juice; and a high ratio, such as 28 to 1, indicates a sweeter juice.

The current voluntary grade standards for canned orange juice, frozen concentrated orange juice, concentrated orange juice for manufacturing, canned concentrated orange juice, dehydrated orange juice, pasteurized orange juice, and orange juice from concentrate contain narrative content that is common to all these grade standards. Much of the narrative content would be eliminated by having a common format with easy-to-read tables. The reduced acid frozen concentrated orange juice standards would be included in the tables.

The standards would be updated to replace dual grade nomenclature (U.S. Grade A or U.S. Fancy; U.S. Grade B or U.S. Choice) with single letter grade designation (U.S. Grade A; U.S. Grade B).

Most of the concentrated orange juice for manufacturing (OM) is blended with other concentrated orange juices to produce frozen concentrated orange juice (FCOJ) or to produce orange juice from concentrate. When producing these products, the processor is able to blend high ratio (Brix/acid ratio) juices and low ratio juices to produce a product within the ratio requirements outlined in the grade standards for: (1) FCOJ or (2) orange juice from concentrate.

Since the end product would be within the existing requirements, it is proposed that the maximum ratio requirements for "Grade A" OM be raised from 20:1 to 24:1. The other ratio requirements would not be changed from the requirements of the existing standards.

It is also proposed that the maximum ratio requirement for "Grade A" canned concentrated orange juice be raised from 18:1 to 20:1. The other ratio requirements would not be changed from the requirements of the existing standards. This change would make the ratio requirements for canned concentrated orange juice more in line with the ratio requirements for FCOJ.

Minimum color criteria have been established in the U.S. Standards for Grades of Orange Juice, government purchase specifications, and frozen concentrated orange juice traded under the Commodities Exchange Act. To provide objective color measurement of orange juice, electronic colorimetry is used to establish the quality grade. Under this proposed revision of the U.S. standards, electronic colorimetry may be used to objectively measure the color of reduced acid frozen concentrated orange juice. For consumers, producers, buyers, and sellers who do not demand as strict an orange juice color criteria, an inexpensive plastic color comparator is available, from a USDA licensed supplier, to determine the color of orange juice. Since the pricing structure of orange juice is determined, in part, by its color an objective method of measurement of color is desirable.

PART 2852—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Accordingly it is proposed to amend various sections of 7 CFR Part 2852 as set forth below:

§§ 2852.1581-2852.1592 (Subpart—United States Standards for Grades of Frozen Concentrated Orange Juice) [Reserved]

1. Subpart—United States Standards for Grades of Frozen Concentrated Orange Juice (7 CFR 2852.1581-2852.1592) would be removed and the sections, excluding the Subpart title, would be reserved.

§§ 2852.2221-2852.2231 (Subpart—United States Standards for Grades of Concentrated Orange Juice for Manufacturing) [Reserved]

2. Subpart—United States Standards for Grades of Concentrated Orange Juice for Manufacturing (7 CFR 2852.2221-2852.2231) would be removed and the sections, excluding the Subpart title, would be reserved.

§§ 2852.2251-2852.2262 (Subpart—United States Standards for Grades of Canned Concentrated Orange Juice) [Reserved]

3. Subpart—United States Standards for Grades of Canned Concentrated Orange Juice (7 CFR 2852.2251–2852.2262) would be removed and the sections, excluding the Subpart title, would be reserved.

§§ 2852.2981-2852.2991 (Subpart—United States Standards for Grades of Dehydrated Orange Juice) [Reserved]

4. Subpart—United States Standards for Grades of Dehydrated Orange Juice (7 CFR 2852.2981–2852.2991) would be removed and the sections, excluding the Subpart title, would be reserved.

§§ 2852.5641-2852.5652 (Subpart—United States Standards for Grades of Pasteurized Orange Juice) [Reserved]

5. Subpart—United States Standards for Grades of Pasteurized Orange Juice (7 CFR 2852.5641–2852.5652) would be removed and the sections, excluding the Subpart title, would be reserved.

§§ 2852.5681-2852.5692 (Subpart—United States Standards for Grades of Orange Juice from Concentrate) [Reserved]

6. Subpart—United States Standards for Grades of Orange Juice from Concentrate (7 CFR 2852.5681–2852.5692) would be removed and the sections, excluding the Subpart title, would be reserved.

7. The title of Subpart—United States Standards for Grades of Canned Orange Juice (7 CFR 2852) would be revised to read "Subpart—United States Standards for Grades of Orange Juice " and the sections thereunder (7 CFR 2852.1551–2852.1562) would be revised to read as follows:

Subpart—United States Standards for Grades of Orange Juice

Sec.

2852.1551 Product description.
2852.1552 Styles.
2852.1553 Definition of terms.
2852.1554 Recommended sample unit size.
2852.1555 Grades.
2852.1556 Factors of quality and analysis.
2852.1557 Requirements for grades.
2852.1558 Sample size.
2852.1559 Lot requirements.
2852.1560 [Reserved].
2852.1561 [Reserved].
2852.1562 [Reserved].

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; (7 U.S.C. 1622, 1624.).

Subpart—United States Standards for Grades of Orange Juice

§ 2852.1551 Product description.

(a) For the purpose of these standards the following products are represented as defined in the Standards of Identity issued under the Federal Food, Drug, and Cosmetic Act.

(1) "Pasteurized orange juice" (21 CFR 146.140).

(2) "Canned orange juice" (21 CFR 146.141).

(3) "Orange juice from concentrate" (21 CFR 146.145).

(4) "Frozen concentrated orange juice" (21 CFR 146.146).

(5) "Reduced acid frozen concentrated orange juice" (21 CFR 146.148).

(6) "Canned concentrated orange juice" (21 CFR 146.150).

(7) "Concentrated orange juice for manufacturing" (21 CFR 146.153 and 21 CFR 146.154).

(b) For the purpose of these standards the following product is not defined in the Standards of Identity issued under the Federal Food, Drug, and Cosmetic Act. The product is defined as follows: "Dehydrated orange juice" is the product made from any of the products listed in paragraph (a) of this section. Optional functional ingredient(s) permissible under the Federal Food, Drug, and Cosmetic Act may be used. The dehydrated orange juice is reduced to a suitable moisture content necessary for preservation.

§ 2852.1552 Styles.

(a) Unsweetened.

(b) Sweetened (not applicable to reduced acid frozen concentrated orange juice).

§§ 2852.1553 Definition of terms.

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 orange juice which are evaluated by the human eye.

(c) *Brix* means the percent, by weight, of orange soluble solids and added sweeteners, if any.

(d) *Brix/acid ratio* means the proportion of orange soluble solids and added sweeteners, if any, to acid.

(e) *Coagulation* means curdling of orange juice.

(f) *Color.*

(1) *Good color* means the orange juice is representative of juice extracted from mature, well-ripened oranges. Orange juice that is good color may be given a score of 36 to 40 points.

(2) *Reasonably good color* means the orange juice may be slightly affected by scorching, oxidation, or caramelization. Orange juice that is reasonably good color may be given a score of 32 to 35 points and may not be graded above "Grade B" regardless of total score.

(3) *Poor Color* means the orange juice fails to meet the requirements for "reasonably good color." Orange juice that is poor color may be given a score of 0 to 31 points and may not be graded above "Substandard" regardless of total score.

(g) *Color standards* means the official USDA Orange Juice Color Standards. The color of orange juice is evaluated by comparing the color of the juice with the USDA Orange Juice Color Standards as points of reference. The availability and procedure for using the color standards may be obtained from:

Chief, Processed Products Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250

Any device approved by the USDA which gives values equivalent to the USDA Color Standards may be used.

(h) *Defects* means juice cells, pulp, seeds or portions of seeds, specks, particles of membrane, core, peel, or any other distinctive features that adversely affect the appearance or drinking quality of the orange juice.

(1) Practically free from defects means defects in excess of that normally expected in orange juice are not present. Orange juice that is practically free from defects may be given a score of 18 to 20 points.

(2) Reasonably free from defects means the presence of defects does not seriously affect the appearance or drinking quality of the orange juice. Orange juice that is reasonably free from defects may be given a score of 16 or 17 points and may not be graded above "Grade B" regardless of total score.

(3) Orange juice that fails the requirements for "reasonably free from defects" may be given a score of 0 to 15 points and may not be graded above "Substandard" regardless of total score.

(i) *Flavor*—(1) *Good flavor* means the flavor is similar to the flavor of juice extracted from mature, fresh, sweet oranges. The orange juice may be slightly affected by processing, packaging, or storage conditions. Orange juice that is good flavor may be given a score of 36 to 40 points.

(2) *Reasonably good flavor* means the flavor is similar to the flavor of juice extracted from reasonably mature, fresh, sweet oranges. The orange juice may be materially, but not seriously, affected by processing, packaging, or storage conditions. Orange juice that is reasonably good flavor may be given a score of 32 to 35 points and may not be

graded above "Grade B" regardless of total score.

(3) *Poor flavor* means orange juice that fails the requirements for "reasonably good flavor." Orange juice that is poor flavor may be given a score of 0 to 31 points and may not be graded above "Substandard" regardless of total score.

(j) *Reconstituted juice* means the orange juice obtained by mixing thoroughly one (1) part by volume of concentrated or dehydrated orange juice with a specific volume of water.

(k) *Reconstitutes properly* means that, upon mixing with water, the concentrate dissolves readily.

(l) *Recoverable oil* means the volume of oil that may be recovered from orange juice as determined by the "Official Methods of Analysis of the Association of Official Analytical Chemists."

(m) *Sample unit* means a portion of orange juice selected for grading.

(n) *Separation* means that the lighter suspended material rises and heavier suspended material sinks resulting in a zone of clear or transparent liquid.

§ 2852.1554 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.

§ 2852.1555 Grades.

(a) *U.S. Grade A* is the quality of orange juice that:

(1) Meets the applicable requirements of Tables I–VIII; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of orange juice that:

(1) Meets the applicable requirements of Table I–VIII; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of orange juice that fails to meet the requirements of "Grade B."

§ 2852.1556 Factors of quality and analysis.

The grade for a lot of product is based on observation and analysis of the orange juice or reconstituted orange juice for the following quality and analytical factors:

(a) Quality:
(1) Appearance;
(2) Coagulation;
(3) Color;
(4) Defects;
(5) Flavor;
(6) Reconstitution;
(7) Separation; and
(8) Total score points.
(b) Analytical:
(1) Acid;
(2) Brix measurement;
(3) Brix/acid ratio; and
(4) Recoverable oil.

BILLING CODE 3410-DM-M

§ 2852.1557 Requirements for grades.

Table I - Canned Orange Juice

Factors	Grade A				Grade B			
Quality:								
Coagulation.	None.				Slight.			
Color.	Good. Equal to or better (than USDA OJ 6.)				Reasonably good. (Not as good as USDA OJ 6.)			
Defects.	Practically free.				Reasonably free.			
Flavor.	Good.				Reasonably good.			
Score Points.	Minimum - 90.				Minimum - 80.			
Analytical:	Unsweetened		Sweetened		Unsweetened		Sweetened	
Brix: minimum.	10.5°		10.5°		10.0°		10.5°	
Brix/Acid Ratio:	Min	Max	Min	Max	Min	Max	Min	Max
Brix < 11.5°	10.5:1	20.5:1						
Brix 11.5° or more.	9.5:1	20.5:1						
Brix < 15°.			12.5:1	20.5:1			12.5:1	20.5:1
Brix 15° or more.			9.5:1	20.5:1			9.5:1	20.5:1
Any Brix.					9.5:1	20.5:1		
Acid (wt/100g):								
California/ Arizona.	0.7g	1.4g	0.7g	1.4g	0.55g	1.55g	0.6g	1.6g
Outside California/ Arizona.	0.6g	1.4g	0.6g	1.4g	0.55g	1.55g	0.6g	1.6g
Recoverable Oil (percent by volume): maximum	0.035		0.035		0.055		0.055	

Table II - Frozen Concentrated Orange Juice

Factors	Grade A				Grade B			
Quality: 3/								
Appearance.	Fresh orange juice.				Fails grade A.			
Reconstitution.	Reconstitutes properly.				Reconstitutes properly.			
Color.	Good. (Equal to or better than USDA OJ 5.)				Reasonably good. (Not as good as USDA OJ 5.)			
Defects.	Practically free.				Reasonably free.			
Flavor.	Good.				Reasonably good.			
Score Points.	Minimum - 90.				Minimum - 80.			
Analytical:	Unsweetened		Sweetened		Unsweetened		Sweetened	
Concentrate:								
Brix: minimum.	41.8°		42.0°		41.8°		42.0°	
Reconstituted Juice:								
Brix: minimum.	11.8°		11.8°		11.8°		11.8°	
Brix/Acid Ratio:	Min	Max	Min	Max	Min	Max	Min	Max
California/ Arizona.	11.5:1	19.5:1	12:1	19.5:1	10:1		10:1	
Outside California/ Arizona.	12.5:1	19.5:1	13:1	19.5:1	10:1		10:1	
Recoverable Oil (percent by volume): maximum	0.035				0.040			

3/ Reconstituted prior to grading.

Table III - Reduced Acid Frozen Concentrated Orange Juice

Factors	Grade A	Grade B
Quality: 3/		
Appearance.	Fresh orange juice.	Fails grade A.
Reconstitution.	Reconstitutes properly.	Reconstitutes properly.
Color.	Good. (Equal to or better than USDA OJ 5.)	Reasonably good. (Not as good as USDA OJ 5.)
Defects.	Practically free.	Reasonably free.
Flavor.	Good.	Reasonably good.
Score Points.	Minimum - 90.	Minimum - 80.
Analytical:		
Concentrate:		
Brix: minimum.	41.8°	41.8°
Reconstituted Juice:		
Brix: minimum.	11.8°	11.8°
Brix/Acid Ratio.	Min 21:1 Max 26:1	Min 21:1 Max 26:1
Recoverable Oil (percent by volume): maximum	0.035	0.040

3/ Reconstituted prior to grading.

Table IV - Concentrated Orange Juice for Manufacturing

Factors	Grade A	Grade B
Quality: 3/		
Reconstitution.	Reconstitutes properly.	Reconstitutes properly.
Color.	Good. (Equal to or better than USDA OJ 6.)	Reasonably good. (Not as good as USDA OJ 6.)
Defects.	Practically free.	Reasonably free.
Flavor.	Good.	Reasonably good.
Score Points.	Minimum - 90.	Minimum - 80.
Analytical:		
Brix/Acid Ratio.	Min 8:1 Max 24:1	Min 8:1 Max 24:1

3/ Reconstituted prior to grading.

Table V - Canned Concentrated Orange Juice

Factors	Grade A				Grade B			
Quality: 3/								
Appearance.	Fresh orange juice				Fails grade A.			
Reconstitution.	Reconstitutes properly.				Reconstitutes properly.			
Color.	Good. (Equal to or better than USDA OJ 5.)				Reasonably good. (Not as good as USDA OJ 5.)			
Defects.	Practically free.				Reasonably free.			
Flavor.	Good.				Reasonably good.			
Score Points.	Minimum - 90.				Minimum - 80.			
Analytical:								
	Unsweetened		Sweetened		Unsweetened		Sweetened	
Concentrate:								
Brix: minimum.	41.8°		42.0°		41.8°		42.0°	
Reconstituted Juice:								
Brix: minimum.	11.8°		11.8°		11.8°		11.8°	
Brix/Acid Ratio.	Min 11.5:1	Max 20:1	Min 12:1	Max 20:1	Min 9.5:1	Max 20:1	Min 10:1	Max 20:1
Recoverable Oil (percent by volume): maximum	0.035				0.040			

3/ Reconstituted prior to grading.

Table VI - Dehydrated Orange Juice

Factors	Grade A		Grade B	
Quality: 3/				
Appearance.	Fresh orange juice		Fails grade A.	
Reconstitution.	Reconstitutes properly.		Reconstitutes properly.	
Color.	Good. (Equal to or better than USDA OJ 6.)		Reasonably good. (Not as good as USDA OJ 6.)	
Defects.	Practically free.		Reasonably free.	
Flavor.	Good.		Reasonably good.	
Score Points.	Minimum - 90.		Minimum - 80.	
Analytical:				
Brix/Acid Ratio.	Min 12:1	Max 18:1	Min 10.5:1	Max 19:1
Recoverable Oil (percent by volume): maximum	0.017		0.025	

3/ Reconstituted prior to grading.

Table VII - Pasteurized Orange Juice

Factors	Grade A				Grade B			
Quality:								
Appearance.	Fresh orange juice.				Fails grade A.			
Coagulation.	None.				None.			
Separation.	No material.				Some.			
Color.	Good. (Equal to or better than USDA OJ 5.)				Reasonably good. (Not as good as USDA OJ 5.)			
Defects.	Practically free.				Reasonably free.			
Flavor.	Good.				Reasonably good.			
Score Points.	Minimum - 90.				Minimum - 80.			
Analytical:	Unsweetened		Sweetened		Unsweetened		Sweetened	
Brix: minimum.	11.0°		11.0°		10.5°		10.5°	
Brix/Acid Ratio:	Min	Max	Min	Max	Min	Max	Min	Max
California/ Arizona.	11.5:1	18:1	12.5:1	20.5:1	10.5:1	23:1	10.5:1	23:1
Outside California/ Arizona.	12.5:1	20.5:1	12.5:1	20.5:1	10.5:1	23:1	10.5:1	23:1
Recoverable Oil (percent by volume): maximum	0.035				0.045			

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Table VIII - Orange Juice from Concentrate

Factors	Grade A				Grade B			
Quality:								
Appearance.	Fresh orange juice.				Fails grade A.			
Coagulation.	None.				None.			
Separation.	No material.				Some.			
Color.	Good. (Equal to or better than USDA OJ 5.)				Reasonably good. (Not as good as USDA OJ 5.)			
Defects.	Practically free.				Reasonably free.			
Flavor.	Good.				Reasonably good.			
Score Points.	Minimum - 90.				Minimum - 80.			
Analytical:	Unsweetened		Sweetened		Unsweetened		Sweetened	
Brix: minimum.	11.8°		11.8°		11.8°		11.8°	
Brix/Acid Ratio:	Min	Max	Min	Max	Min	Max	Min	Max
California/ Arizona.	11.5:1	18:1	12.5:1	20.5:1	11:1	23:1	11:1	23:1
Outside California/ Arizona.	12.5:1	20.5:1	12.5:1	20.5:1	11:1	23:1	11:1	23:1
Recoverable Oil (percent by volume): maximum	0.035				0.045			

§ 2852.1558 Sample size.

The sample size to determine acceptance with 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 2852.1–2852.83).

§ 2852.1559 Lot requirements.

A lot of orange juice is considered as meeting requirements for quality if:

(a) The requirements specified in Tables I, II, III, IV, V, VI, VII, and VIII of this subpart, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 2852.1–2852.83 are met.

§§ 2852.1560–2852.1562 [Reserved]

(Agriculture 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 September 3, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-26294 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-DM-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 720

Description of Office, Disclosure of Official Records; Availability of Information, Promulgation of Regulations

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: In accordance with the established policy goals of updating, clarifying, and simplifying existing regulations, the National Credit Union Administration Board (NCUA Board) has reviewed its existing regulation regarding the disclosure of official records, the availability of information and the promulgation of regulations. As a result of this review, the National Credit Union Administration proposes to revise the existing §§ 720.4 through 720.9 and to delete §§ 701.16, 701.17, and 701.18. These changes will consolidate and clarify NCUA policy on the availability of information.

DATE: Comments must be received on or before October 12, 1981.

ADDRESS: Send comments to Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Anne K. Scully, Office of General Counsel, at the above address, telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: The National Credit Union Administration amended Part 720 Subpart A of its Rules and Regulations (12 CFR Part 720) on February 21, 1975 to implement the 1974 Freedom of Information Act Amendments, Public Law 93–502. However, new issues have arisen subsequent to the publication of these regulations which are not addressed by the existing provisions or are generally treated but are lacking in specificity. In addition, other provisions require revision for clarification of existing language.

Unpublished Confidential and Privileged Information

The present regulation sets forth, in general terms and without further explanation or description, the nine exemptions from disclosure enumerated under the Freedom of Information Act (FOIA). Therefore, while the form of the current regulation is concise, uncertainty remains in interpretation and application of many of the exemptions. In order to avoid conflicting interpretations of the exemptions, the amended version would provide additional examples of types of agency records to which each exemption applies. The examples and accompanying explanations will clarify NCUA's interpretation of the exemptions and will provide a starting point for persons not familiar with the FOIA exemptions.

Release of Exempt Records

The Freedom of Information Act is a disclosure statute the purpose of which is to grant to any person access to all agency records except to the extent the records or portions of them may be withheld pursuant to one or more of FOIA's nine exemptions. Traditionally, the nine exemptions of the Act are discretionary exceptions from the Act's compulsory disclosure requirements. NCUA generally invokes the exemptions where public disclosure of exempt information would frustrate and impede the performance of vital agency functions. However, NCUA recognizes that, in certain instances, legitimate public and private interests may outweigh the agency's need to maintain confidentiality of the information and that disclosure would further the policies, objectives and functions of the Administration.

To facilitate public access without compromising NCUA's traditional reasons for maintaining confidentiality, a new section has been proposed which establishes policy guidelines for the discretionary release of information protected by the FOIA exemptions. The language denotes when and under what circumstances the Administration will release exempt materials.

Release of Exempt Records Subject to Subpoena or Other Legal Process

The existing regulations contains no procedures relating to release of exempt records in the custody of NCUA or other third parties that are requested by subpoena or other legal process. However, because litigation by and against NCUA has increased and use of discovery techniques to prepare for such litigation has also risen, NCUA proposes to include a new § 720.6, entitled "Subpoenas." The new regulation sets forth guidelines for the agency to follow when faced with requests for exempt material by legal process, including when and under what circumstances exempt information that is the subject of a subpoena will and will not be released.

Creation of Position of Freedom of Information Officer

The Office of Administration within NCUA has been restructured and reorganized. The Freedom of Information Officer has assumed all of the duties and responsibilities previously held by the Deputy Director regarding oversight and management of FOIA requests. Therefore, as a technical change, Part 720 is being revised to change the title "Deputy Director" of the Office of Administration to "Freedom of Information Officer" of the Office of Administration.

Fee Schedule for Document Search and Duplication

It is proposed that § 720.5's present fee schedule for document search and reproduction of requested records be amended to reflect the prevailing Federal salary and cost rates that NCUA must pay for retrieval and processing of such documents.

Agency Determination To Release Information

It is proposed that the substantive content of § 720.7 will remain largely unchanged. Proposed additional language would clarify the agency procedure at the initial level of determination of an FOIA request. Upon

receipt of a request, the Freedom of Information Officer would decide either to release the information sought or to withhold all or portions of the information deemed to be confidential or privileged under an FOIA exemption. The two-tiered decision making process is clarified by including the statement that an adverse determination is not a final decision and that the requestor has the right to appeal the initial decision.

Certain Publications Available to the Public

It is proposed that former § 720.6 be revised to include §§ 701.16 (Statements of policy and interpretations) and 701.17 (List of Federal Credit Unions) in its scope. This proposed revision is intended to delineate, within one section of NCUA's Regulations, the publications that are available to the public for inspection and copying, and the procedures an individual should follow in making a request.

Promulgation of Rules and Regulations

In 1979, NCUA published its procedures for developing and improving its regulations in accordance with the Executive Order No. 12044, Appendix A to 12 CFR Part 720. However, that Executive Order has been superseded by Executive Order No. 12291 (February 17, 1981) which is not applicable to NCUA. Further, subsequent statutory enactments have occurred since the issuance of Appendix A, including the Regulatory Flexibility Act of 1980, the Paperwork Reduction Act of 1980, and the Financial Regulations Simplification Act of 1980. These new statutes impose requirements in addition to those already imposed by the Administrative Procedures Act (APA) (5 U.S.C. 551, et seq.) for developing regulations. In response to the new statutory requirements, NCUA has issued an Interpretive Ruling and Policy Statement (IRPS), setting forth its procedures for developing regulations. Since the present Section 720.8 sets forth NCUA's rulemaking procedures in accordance with the APA and the defunct E.O. 12044 only, NCUA proposes to revise its existing Section 720.8 to reference its procedures for complying with the Administrative Procedures Act, the recently enacted statutes, and its IRPS.

Regulatory Flexibility Act

The NCUA Board certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the rules concern only agency organization, procedure or practice pertaining to public access to official records and development of regulation.

By order of the National Credit Union Administration Board, August 13, 1981.

Beatrix Fields,

Acting Secretary of the Board.

Accordingly, it is proposed to amend Parts 701 and 720 (12 CFR Parts 701, 720) as set forth below.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

§§ 701.16, 701.17, 701.18 [Removed]

1. Sections 701.16, 701.17, and 701.18 are proposed to be removed.

PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS—AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

2. 12 CFR 720.4(a) is proposed to be revised to read as follows:

§ 720.4 Unpublished, confidential and privileged information.

(a) All records, including files, documents, reports, books and accounts, relating to any credit union, or the internal practices and procedures of the Administration, or any officer, employee, or agent thereof, are confidential and privileged and not subject to disclosure, except as otherwise provided in this Part, if such records are:

(1) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to an Executive Order.

(2) Records related solely to the internal personnel rules and practices of the Administration. This exemption applies to internal rules or instructions to Administration personnel which must be kept confidential in order to assure effective performance of the functions and activities for which the Administration is responsible and which do not affect members of the public. This exemption also applies to manuals and instructions to examiners to the extent that release of the information contained therein would permit circumvention of laws or regulations.

(3) Specifically exempted from disclosure by statute (other than the Privacy Act of 1974, 5 U.S.C. 552a), where the statute either makes non-disclosure mandatory or establishes particular criteria for withholding information.

(4) Records which contain trade secrets and commercial or financial information which relates to the business, personal or financial affairs of any person or organization, is furnished to NCUA and is confidential or privileged. This exemption includes, but is not limited to, information such as various types of confidential sales and cost statistics, trade secrets, and names of key customers and personnel. Assurances of confidentiality given by Administration staff are not binding upon the Administration.

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the Administration. This exemption preserves the existing freedom of Administration officials and employees to engage in full and frank written or taped communications with each other and with officials and employees of other agencies. It includes, but is not limited to, inter-agency and intra-agency reports, memoranda, letters, correspondence, work papers, and minutes of meetings, as well as staff papers prepared for use within the Administration or between the Administration and other governmental agencies.

(6) Personnel and medical files and similar files (including financial files), the disclosure of which without written permission would constitute a clearly unwarranted invasion of personal privacy. Examples of files exempt from disclosure include, but are not limted to (i) the personnel records of the Administration; (ii) the personnel records voluntarily submitted by private parties in response to the Administration's requests for proposals; (iii) files containing reports, records or other material pertaining to individual cases in which disciplinary or other administrative action has been or may be taken.

(7) Contained in investigatory files compiled for law enforcement purposes, provided that disclosure of the records would (i) interfere with enforcement proceedings; (ii) deprive a person of a fair trial or an impartial adjudication; (iii) result in an unwarranted invasion of personal privacy; (iv) reveal the identity of a confidential source, or any confidential information furnished by a confidential source in the course of a criminal investigation or a lawful national security intelligence investigation; (v) disclose investigative techniques and procedures; or (vi) endanger the safety of law enforcement personnel. This includes, but is not limited to, information relating to enforcement proceedings upon which the Administration has acted or will act in the future.

(8) Contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of the Administration or any agency responsible for the regulation or supervision of financial institutions. This includes all information, whether in formal or informal report form, the disclosure of which either would harm the financial security of credit unions or would interfere with the relationship between the Administration and member credit unions.

* * * * *

§§ 720.5 through 720.9 [Redesignated as §§ 720.7 through 720.11]

3. It is proposed that existing §§ 720.5 through 720.9 be redesignated as §§ 720.7 through 720.11 and that new §§ 720.5 and 720.6 be added to read as follows:

§ 720.5 Release of exempt records.

(a) *Prohibition Against Disclosure.* Except as provided in §§ 720.3, 720.4 and 720.5 (b) and (c), no officer, employee, or agent of the Administration or of any federally chartered or insured credit union shall disclose or permit the disclosure of any exempt records of the Administration to any person other than those officers, employees, or agents of the Administration or of the credit union properly entitled to such information for the performance of their official duties.

(b) *Disclosure Authorized.* Exempt records of the Administration may be disclosed only in accordance with the following conditions and requirements.

(1) *Exempt Records—Disclosure to Credit Unions, Financial Institutions and to State and Federal Agencies.* In its sole discretion, the NCUA Board, or any person designated by it in writing, may make available to certain Governmental agencies and insured financial institutions copies of reports of examination and other documents, papers or information for their use, when necessary, in the performance of their official duties or functions. All reports, documents and papers made available pursuant to this paragraph shall remain the property of the National Credit Union Administration. No person, agency or its employees shall disclose the reports or exempt records without express written authorization of the Administration.

(2) *Exempt Records—Disclosure to Investigatory Agencies.* The Board, or any person designated by it in writing, may in its discretion and in appropriate circumstances, disclose to proper Federal or State authorities copies of exempt records pertaining to irregularities discovered in credit unions which may constitute either unsafe or unsound practices or violations of Federal or State civil or criminal law.

(3) *Exempt Records—Disclosure to Third Parties.* The Board, or any person designated by it in writing, may disclose copies of exempt records to any third party where requested to do so in writing. The request shall: (i) specify the record or records to which access is requested; and (ii) give the reasons for the request. Any Administration employee authorized to disclose exempt Administration records to third parties may disclose the records only upon determining that good cause exists for the disclosure. The Administration official shall impose such terms and conditions as are deemed necessary to protect the confidential nature of the record, the financial integrity of any credit union or other organization or person to which the record relates, and the legitimate privacy interests of any individual named in such records.

§ 720.6 Subpoenas.

(a) *Service.* Any subpoena or other legal process requesting agency records shall be served upon the General Counsel, National Credit Union Administration, 1776 G Street N.W., Washington, D.C. 20456 or upon the Regional Director of the NCUA Region where the legal action from which the legal process issued is pending.

(b) *Advice to person served.* (1) If any officer, employee or agent of the Administration is served with a subpoena, court order or other legal process requiring that person's attendance as a witness concerning written information or the production of documents that cannot be disclosed under § 720.4, that person should promptly inform the Office of General Counsel of such service and of all relevant facts, including the nature of the doucuments and information sought in the subpoena and any facts and circumstances which may be of assistance to the General Counsel in determining whether such documents or information should be produced.

(2) If any third party who is not an officer, employee or agent of the Administration is served with a subpoena, court order or other legal process requiring that party to produce such records or to testify with respect to the requested records, such party should notify the Office of General Counsel in accordance with the procedures set forth in § 720.6(b)(1).

(c) *Appearance by person served.* Absent the authorization of the Office of General Counsel to disclose the requested information, any officer, employee or agent of the Administration (and any third party having custody of exempt records of the Administration) who is required to respond to the subpoena or other legal process shall attend at the time and place specified and shall respectfully decline to produce the documents and records or to disclose the information called for, basing his refusal upon this paragraph.

4. Redesignated § 720.7(a) is proposed to be revised to read as follows:

§ 720.7 Fee schedule for document search and duplication.

(a) A fee shall be assessed for the searching and processing of requested documents on the following basis:

Direct cost of: Clerical time, $5.97 per hour; professional time, $15.50 per hour; charge per page of material duplicated, $.25.

Computer costs shall be assessed in accordance with a standard formula based on computer time required. A computer cost estimate shall be furnished to the requestor at the time the request is granted.

Actual cost of transportation of people or records if required to process the request.

The fees assessed for searching and processing requests are subject to an annual review and may be revised to reflect the prevailing wage and cost rates.

* * * * *

§§ 720.8 and 720.9 [Amended]

5. It is proposed that redesignated §§ 720.8 (a)(1), (c)(1) and (c)(2) and 720.9(c)(1) be amended: by deleting the words "Deputy Director" and inserting, in their place, the words "Freedom of Information Officer".

6. Redesignated § 720.8(b) is proposed to be revised to read as follows:

§ 720.8 Requests for information and determinations.

* * * * *

(b) *Certain Publications.* (1) A master list of Federal credit unions, arranged by state, is maintained at NCUA headquarters and is available for inspection and copying. Each Regional Office maintains a similar list for the states for which it has jurisdiction. These lists are also available for inspection and copying. In addition, a directory of all Federally insured credit unions, which is updated periodically, is available for purchase at NCUA cost. The directory may be obtained by contacting the Freedom of Information Officer, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

(2) Interpretive Rulings and Policy Statements which do not appear in NCUA publications shall be available for inspection and copying at each Regional Office and at NCUA headquarters in Washington, D.C.

(3) Section 701.14 of this chapter describes certain manuals, booklets and other materials which are available and the places where they may be obtained, inspected or copied.

7. Redesignated § 720.9(a)(1) is proposed to be revised to read as follows:

§ 720.9 Agency determinations.

(a) * * *

(1) Determine within 10 working days (except legal public holidays) after the receipt of any such request whether, or the extent to which, to comply with such request; will upon such determination notify the person making the request that any adverse determination is not a final agency action, and that such person may appeal any adverse determination to the Director of the Office of Administration; and

* * * * *

8. Redesignated § 720.10 is proposed to be revised to read as follows:

§ 720.10 Promulgation of rules and regulations.

(a) The Administration's procedures for developing regulations shall be governed by the Administrative Procedures Act (5 U.S.C. 551), the Financial Regulation Simplification Act of 1980 (12 U.S.C. 3521 et seq.), the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), and the Administration's policies for the promulgation of rules as set forth in its Interpretive Ruling and Policy Statement (IRPS) number 81-4, dated June 3, 1981.

(b) *Petitions.* Any interested person may petition the Board for the issuance, amendment, or repeal of any regulation by submitting such petition in writing together with a complete and concise statement of the petitioner's interest in the subject matter and the reasons why the petition should be granted. Such petition shall be submitted to the Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G St., N.W., Washington, D.C. 20456.

* * * * *

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

[FR Doc. 81-26556 Filed 9-10-81; 8:45 am]

BILLING CODE 7535-01-M

WATER RESOURCES COUNCIL

18 CFR Parts 711, 713, 714, and 716

Water and Related Land Resources Planning; Principles, Standards and Procedures; Removal of Regulations

AGENCY: Water Resources Council.

ACTION: Proposed repeal of rules.

SUMMARY: This proposal is for repeal of the Water Resources Council principles, standards and procedures for water and related land resources planning that have been issued as rules in 18 CFR Parts 711, 713, 714, and 716. The purpose of the repeal is to reduce the burden on agencies in complying with detailed and legally binding technical rules for formulation and evaluation of water and related land resources plans and projects.

DATE: The interested public is invited to submit written comments on this proposal by October 13, 1981.

ADDRESS: Written comments should be addressed to: Water Resources Council, 2120 L Street NW., Suite 800, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Gerald D. Seinwill, Acting Director, (202) 254-6303.

SUPPLEMENTARY INFORMATION:

1. Purpose and Background

The principles, standards, and procedures in 18 CFR Parts 711, 713, 714, and 716 were published as rules at various times in 1979 and 1980, primarily as a result of President Carter's water policy initiatives outlined in his memorandum of July 12, 1978, entitled, "Improvements in the Planning and Evaluation of Federal Water Resources Programs and Projects." Additional directives of a similar nature were given by President Carter in E.O. 12113, *Independent Project Review*, January 5, 1979.

More recent policy review has led to the conclusion that the principles, standards, and procedures are too complicated, too rigid, and too cumbersome as legally binding formal rules. Accordingly, the Water Resources Council proposes to repeal 18 CFR Parts 711, 713, 714 and 716. To take the place of the repealed rules, it is anticipated that Cabinet Council on Natural Resources and the Environment will provide guidelines to be recommended for establishment by Executive Order.

Under Section 103 of the Water Resources Planning Act (Pub. L. 89-80) and E.O. 11747, the Council has authority to take final action on repeal of the Standards and Procedures (18 CFR Parts 713, 714 and 716) and to take final action, with the approval of the President, on the repeal of the Principles (45 FR 64385-88 and 18 CFR Part 711).

2. Required Analysis

This proposed repeal has been determined not to be a major rule under Executive Order 12291, "Federal Regulations," February 17, 1981. It has also been determined that this proposed repeal will not have a significant economic effect on a substantial number of small entities and therefore does not require a small entity flexibility analysis under Pub. L. 96-354.

A preliminary environmental assessment has been prepared in accordance with 40 CFR Parts 1500-1508 and has been determined by the Chairman, Water Resources Council to be sufficient for the present action. Another environmental assessment will be prepared for the final action.

Copies of the environmental assessment may be obtained from the U.S. Water Resources Council, 2120 L Street, NW., Suite 800, Washington, D.C., 20037.

Proposed Action

PART 711—[REMOVED]

PART 713—[REMOVED]

PART 714—[REMOVED]

PART 716—[REMOVED]

It is proposed that the Code of Federal Regulations, Title 18, Chapter VI, Parts 711, 713, 714, and 716 be removed.

(Secs. 103 and 402 of the Water Resources Planning Act (Pub. L. 89-80, 42 U.S.C. 1962, 1962a-2 and 1962d); E.O. 11747, November 7, 1973, 38 FR 30993)

James G. Watt,

Chairman, Water Resources Council.

[FR Doc. 81-26550 Filed 9-10-81; 8:45 am]

BILLING CODE 6410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 57

[6060.XX]

Education of Handicapped Children in the DOD Dependents Schools

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement the Education for All Handicapped Children Act of 1975, as amended, 20 U.S.C. 1401 *et seq.* (1976 & Supp. II 1978), and the Defense

Dependents' Education Act of 1978, 20 U.S.C. 921–932, as amended by Pub. L. No. 96–88. The proposed rule establishes policy and procedures for providing a free appropriate public education to handicapped children receiving or entitled to receive educational instruction from the Department of Defense Dependents Schools. It also creates the Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents and the Department of Defense Coordinating Committee on Special Education and Related Services.

DATE: Written comments must be received by October 13, 1981.

ADDRESS: Department of Defense Dependents Schools, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Dr. Diane L. Goltz, 202–325–7821.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–13860, appearing in the Federal Register on May 7, 1981 (46 FR 25440), the Office of the Secretary of Defense published a directive-type memorandum that established procedural rules to govern impartial due process hearings arising under the Education for All Handicapped Children Act and involving the Department of Defense Dependents Schools. Comments received in connection with the publication of the directive-type memorandum were considered in the preparation of the proposed Instruction, but are not described in detail here because of the opportunity to comment on the proposed Instruction. When issued in final form, the proposed Instruction will supersede the directive-type memorandum, which was codified at 32 CFR Part 57.

Accordingly, it is proposed that 32 CFR Chapter I be amended by revising Part 57, reading as follows:

PART 57—EDUCATION OF HANDICAPPED CHILDREN IN THE DOD DEPENDENTS SCHOOLS

Sec.

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Authority: Pub. L. 94–142, as amended; Pub. L. 95–561, as amended

§ 57.1 Purpose.

This Part proposes to establish policies and procedures for providing a free appropriate public education to handicapped children receiving or entitled to receive educational instruction from the Department of Defense Dependents Schools pursuant to Pub. L. 94–142 and Pub. L. 95–561 and in accordance with Part 69 of this title, and creates an Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents (hereafter called "National Advisory Panel") and a DoD Coordinating Committee on Special Education and Related Services.

§ 57.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense and its field activity, the Department of Defense Dependents Schools (hereafter called "DoDDS") and DoDDS' constituent elements; the Military Departments; the Organization of the Joint Chiefs of Staff; the Unified and Specified Commands; and the Defense Agencies (hereafter called "DoD Components"); and children receiving or entitled to receive educational instruction from the DoDDS, and their parents or guardian, provided, however, that this Part does not apply to schools operated by DoD within the United States.

§ 57.3 Policy.

(a) All handicapped children enrolled or entitled to be enrolled in a school administered by DoDDS shall be provided a free appropriate public education, under the provisions of this Part.

(b) DoDDS shall have the responsibility of providing a free appropriate public education to all handicapped children enrolled in its schools.

(c) Handicapped children receiving or entitled to receive educational instruction from DoDDS shall have the same educational opportunities and services offered by DoDDS to nonhandicapped children and an equal opportunity to participate in school activities.

(d) Physical education services, modified or specially designed if necessary, shall be available to every handicapped child receiving a free appropriate public education in DoDDS.

(e) Where appropriate, a qualified military medical authority will conduct or verify a medical evaluation to determine whether a child has a handicapping condition requiring special education and related services.

§ 57.4 Responsibilities.

(a) The *Director, Department of Defense Dependents Schools, and his subordinate organizational structure,* shall: (1) Ensure that the educational needs of handicapped and nonhandicapped children are met comparably, using the procedures in Appendix 1.

(2) Ensure that educational facilities and services operated by DoDDS for handicapped children are comparable to DoDDS educational facilities and services for nonhandicapped children.

(3) Maintain records on special education and related services provided to handicapped children.

(4) Provide any or all special education and related services required by a handicapped child through interagency, intraagency, and interservice arrangements, or through contracts with private parties, when funds are authorized and appropriated.

(5) Develop and implement a comprehensive system of personnel development.

(6) Monitor compliance with this Part.

(7) Provide technical assistance.

(8) Undertake evaluation activities to ensure compliance with this Part.

(b) The *Secretaries of the Military Departments* shall provide only those related services that are supplied by a physician or require professional medical supervision. In general, those services, which are diagnostic and therapeutic in nature, shall be provided to DoDDS by the appropriate military command having responsibility for medical care in the geographical region.

(c) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics),* in consultation with the Assistant Secretary of Defense (Health Affairs) and the Military Departments, shall assign specific functions and geographical areas of responsibility for all related services.

(d) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)),* or designee, shall:

(1) Chair the DoD coordinating Committee on Special Education and Related Services, which shall be composed of respresentatives of the Secretaries of the military Departments, the OASD(MRA&L), the Assistant Secretary of Defense (Health Affairs), the General Counsel of the Department of Defense, and DoDDS.

(2) Through the Committee, monitor the provision of related services furnished under this Part, and ensure that related services and DoDDS special education programs are properly coordinated.

(3) Ensure that impartial due process hearings concerning disputes arising under this Part are provided in conformity with Appendix 2.

(e) The *National Advisory Panel* shall:

(1) Consist of members appointed by the Secretary of Defense, or designee. Membership shall include at least one representative from each of the following groups:

(i) Handicapped persons.

(ii) Teachers.

(iii) Parents of handicapped children.

(iv) DoDDS headquarters.

(v) DoDDS regional offices.

(vi) DoDDS special educational program administrators.

(vii) Military Departments and overseas commands.

(viii) Other appropriate persons.

(2) Meet as often as necessary.

(3) Perform the following duties:

(i) Review information regarding improvements in services provided to handicapped students in DoDDS.

(ii) Receive and consider the views of various parent, student, and professional groups, and handicapped individuals.

(iii) When necessary, establish committees for short-term purposes composed of representatives from parent, student, and professional groups, and handicapped individuals.

(iv) Review the findings of fact and decision of each impartial due process hearing conducted pursuant to Appendix 2.

(v) Assist in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties under this Part.

(vi) Make recommendations, based on program and operational information, for changes in the budget, organization, and general management of the special education program, and in policy and procedure.

(vii) Comment publicly on rules or standards regarding the education of exceptional children.

(viii) Perform such other tasks as may be requested by the Director.

(4) Submit an annual report of its activities and suggestions to the Director, DoDDS by July 31 of each year.

§ 57.5 Definitions

(a) *Free Appropriate Public Education.* Special education and related services that:

(1) Are provided at no cost to parents or handicapped children and are under the general supervision and direction of DoDDS.

(2) Provide appropriate preschool, elementary, or secondary school education.

(3) Are provided in conformity with an individualized education program.

(4) Meet the requirements of this Part.

(b) *Handicapped Children.* Those children, evaluated in accordance with this Part, who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or have specific learning disabilities, and who because of such impairments need special education and related services.

(1) *Deaf.* A hearing loss or deficit so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, to the extent that his or her educational performance is adversely affected.

(2) *Deaf-blind.* Concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children.

(3) *Hard of Hearing.* A hearing impairment, whether permanent of fluctuating, that adversely affects a child's educational performance but that does not constitute deafness.

(4) *Mentally Retarded.* Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the development period, that adversely affects a child's educational performance.

(5) *Multihandicapped.* Concomitant impairments (such as mentally retarded-blind or mentally retarded-orthopedically impaired), the combination of which causes such severe educational problems that they cannot be accommodated in special educational programs solely for one of the impairments.

(6) *Orthopedically Impaired.* A severe orthopedic impairment that adversely affects a child's educational performance. The term includes congenital impairments (such as clubfoot and absence of some member), impairments caused by disease (such as poliomyelitis and bone tuberculosis), and impairments from other causes (such as cerebral palsy, amputations, and fractures or burns causing contractures).

(7) *Other Health Impaired.* Limited strength, vitality or alertness due to chronic or acute health problems that adversely affect a child's educational performance, including heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, or autism.

(8) *Seriously Emotionally Disturbed.* A condition that, where appropriate, has been confirmed by clinical evaluation and diagnosis, that, over a long period of time and to a marked degree, adversely affects educational performance, and that exhibits one or more of the following characteristics:

(i) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(iii) Inappropriate types of behavior under normal circumstances.

(iv) A tendency to develop physical symptoms or fears associated with personal or school problems.

(v) A general pervasive mood of unhappiness or depression.

The term includes children who are schizophrenic, but does not include children who are socially maladjusted, unless it is determined they are seriously emotionally disturbed.

(9) *Specific Learning Disability.* A disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems that are primarily the result of visual, hearing or motor handicaps, mental retardation, or environmental, cultural, or economic disadvantage.

(10) *Speech Impaired.* A communication disorder, such as but not limited to stuttering, impaired articulation, a language impairment or a voice impairment, that adversely affects a child's educational performance.

(11) *Visually handicapped.* A visual impairment that, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

(c) *Special Education.* Specially designed instruction, at no cost to the child, parent, or guardian, to meet the unique educational needs of a handicapped child, including education provided in a school, at home, in a hospital or an institution, physical education programs, and vocational education programs.

(1) *At No Cost.* With respect to a child attending a DoDDS school on a non-tuition basis, specially designed instruction and related services are provided without charge, but incidental fees that are normally charged to nonhandicapped students or their parents or guardians as a part of the

regular educational program may be imposed. With respect to a child attending a DoDDS school on a tuition basis, the term does not preclude the imposition of additional charges to reflect the cost of special education and related services.

(2) *Physical Education.* The development of:

(i) Physical and motor fitness.

(ii) Fundamental motor skills and patterns.

(iii) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

(3) *Vocational Education.* Organized educational programs directly related to the preparation for paid or unpaid employment or for additional training in a career requiring other than a baccalaureate or advanced degree.

(d) *Related Services.* Transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education pursuant to that child's Individualized Educational Program. The term includes speech therapy and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluative purposes. The term also includes school health services, social work counseling services in schools, and voluntary parent counseling.

(1) *Audiology.* This term includes:

(i) Identification of children with hearing loss.

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention designed to ameliorate or correct that loss.

(iii) Provision of ameliorative and corrective activities, including language and auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation.

(2) *Counseling Services.* Services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) *Early Identification.* The implementation of a formal plan for identifying a disability as early as possible in the child's life.

(4) *Medical Services.* Services provided by a licensed physician to determine and diagnose whether a child has a medically-related handicapping condition that results in the child's need for special and related services.

(5) *Occupational Therapy.* Services provided by a qualified occupational therapist.

(6) *Parent and Guardian Counseling and Training.* Assisting parents or guardians in understanding the special needs of their child's development and special education.

(7) *Physical Therapy.* Services provided by a qualified physical therapist.

(8) *Psychological Services.* This term includes:

(i) Administering psychological and educational tests and other assessment procedures.

(ii) Interpreting test and assessment results.

(iii) Obtaining, integrating, and interpreting information about a child's behavior and conditions relating to his or her learning.

(iv) Consulting with other staff members in planning school programs to meet the special needs of children, as indicated by psychological tests, interviews, and behavioral evaluations.

(v) Planning and managing a program of psychological services, including psychological counseling for children.

(9) *Recreation.* This term includes:

(i) Therapeutic recreational activities.

(ii) Recreational programs in schools and community agencies.

(10) *School Health Services.* Services provided by a qualified school nurse or other qualified health professional. The term does not include catheterization, injections, transfusions, or administration of any drug or substance, whether or not prescribed, recommended, or authorized by any physician, nurse, another medical professional, or other person. The term also does not include any medical or nonmedical procedure, treatment, or course of treatment necessary to sustain or maintain a child's life, life function, or life support function. Nothing herein shall be construed to preclude a duly trained, certified, or licensed DoDDS employee from performing any of the foregoing activities when authorized or directed by a DoDDS regional director.

(11) *Social Work Counseling Services in Schools.* This term includes: (i) Preparing a social or developmental history on a handicapped child.

(ii) Counseling the child and his or her family on a group or individual basis.

(iii) Working with those problems in a child's home, school, and community that adversely affect the child's adjustment in school.

(iv) Using school and community resources to enable the child to receive maximum benefit from his or her educational program.

(12) *Speech Therapy.* This term includes the:

(i) Identification of children with speech or language disorders.

(ii) Diagnosis and appraisal of specific speech or language disorders.

(iii) Referral for medical or other professional attention to correct or ameliorate speech or language disorders.

(iv) Provision of speech and language services for the correction, amelioration, and prevention of communicative disorders.

(v) Counseling and guidance of children, parents or guardians, and teachers for speech and language disorders.

(13) *Transportation.* This term includes the following services rendered pursuant to the Individualized Educational Program of a handicapped child:

(i) Travel to and from school and between schools, including travel necessary to permit participation in educational and recreational activities and related services.

(ii) Travel in and around school buildings.

(iii) Specialized equipment (including special or adapted buses, lifts, and ramps), if required to provide special transportation for a handicapped child.

(e) *Individualized Education Program (hereafter called "IEP").* A written statement for a handicapped child that is developed and implemented in accordance with this Part.

(f) *Include; Such As.* Not all the possible items are covered, whether like or unlike the ones named.

(g) *Native Language.* When used with reference to an individual of limited English proficiency, the language normally used by such individual, or in the case of a child, the language normally used by the parents of the child.

(h) *Parent.* A parent or guardian of a child who is receiving or is entitled to receive educational instruction from DoDDS.

(i) *Qualified.* A person who has met DoDDS requirements and educational standards in the area in which he or she is providing special education or related services to handicapped children.

(j) *Regional Director.* The Regional Director of a DoDDS region, or designee.

(k) *Evaluation.* Procedures used to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. To qualify as an evaluation, these procedures must be used selectively with an individual child and do not include basic tests administered to, or used with, all children in a school, grade, or class.

(l) *Consent.* This term means that:

(1) The parent or guardian of a handicapped child has been fully informed of all information relevant to the activity for which permission is sought in his or her native language or in another mode of communication.

(2) The parent or guardian understands and agrees in writing to the implementation of the activity for which his or her permission is sought. The writing must describe that activity, list the child's records that will be released and to whom, and acknowledge that the parent or guardian understands consent is voluntary and may be prospectively revoked at any time.

(m) *Independent Evaluation.* An evaluation conducted by a qualified examiner who is not employed by the DoDDS school with responsibility for educating the child being evaluated.

(n) *Non-DoDDS School or Facility.* A public or private school or other institution not operated by DoDDS.

(o) *Non-DoDDS Placement.* An assignment by DoDDS of a handicapped child to a non-DoDDS school or facility.

(p) *Separate Facility.* A school or a portion of a school, regardless of whether it is operated by DoDDS, that is only attended by handicapped children.

(q) *Child-Find.* The on-going process used by DoDDS and the Military Departments to seek and identify children (from birth to 21 years of age) who show indications that they might be in need of special education and related services.

Appendix 1—Procedures for Educational Programs and Services for Handicapped Children

A. Identification and Screening

1. DoDDS shall locate, identify, and, with the consent of the child's parent or guardian, evaluate all children who are receiving or are entitled to receive an education from DoDDS and who need special education and related services because they are handicapped as defined in this Part.

2. DoDDS shall: a. Provide screening, by using basic skills tests in reading, language arts, and mathematics and by reviewing records of all children entering DoDDS schools for the first time, to determine whether a child has an undetected handicap.

b. Analyze school health data for those children who demonstrate possible handicapping conditions. Such data shall include:

(1) Results of formal hearing and vision tests.

(2) Reports from physicians and public health service personnel.

(3) Reports from other appropriate professional health personnel as may be necessary to aid in identifying possible handicapping conditions.

c. Analyze other pertinent information, including suspensions, exclusions, withdrawals, and disciplinary actions, compiled and maintained by schools that may aid in identifying possible handicapping conditions.

d. Provide direction and guidelines for child-find activities.

3. Each DoDDS regional office, in cooperation with the Military Departments, shall conduct on-going child-find activities that identify all children with possible handicapping conditions who are or will be entitled to receive an education from DoDDS.

4. If an element of DoDDS, a qualified professional authorized to provide related services, or another source determines that a child has a possible handicapping condition, the child shall be referred to the appropriate Case Study Committee (CSC).

5. A school CSC consists of the participants in the child's IEP meeting as prescribed in paragraph C.6 of appendix, below. In addition, school CSC may contain the DoDDS school principal, or designee, and one or more persons selected by the principal from the following groups:

a. DoDDS resource educators, including psychologists, guidance counselors, social workers, school health personnel, and speech therapists.

b. DoDDS regular classroom teachers.

c. DoDDS special education personnel.

6. Members of a regional CSC shall be appointed by the DoDDS Regional Director, or designee, and include one or more persons belonging to the following groups: DoDDS resource educators, such as psychologists, guidance counselors, social workers, school health personnel, and speech therapists; and DoDDS special education personnel. The Regional CSC shall act in the absence of a school CSC.

7. A school or regional CSC shall:

a. Identify handicapped children.

b. Assess the nature and extent of the handicapping condition.

c. Ensure appropriate involvement of parents.

d. Develop, review and revise IEPs, and monitor their implementation.

e. Determine whether a handicapped child's conduct that either violates school rules and regulations or disrupts classroom activities results in whole or in part from a handicapping condition.

f. Use all locally available community, medical, and school resources to facilitate the implementation of a child's IEP before determining that the child's need for special education and related services exceeds local capabilities.

B. Evaluation Procedures

1. Any child referred to a CSC for a possible handicapping condition shall receive a full and comprehensive diagnostic evaluation of his or her educational needs. An evaluation in accordance with this Part shall be administered before any action is taken regarding placement in a special education program.

2. Assessment materials, evaluation procedures, and tests shall be:

a. Racially and culturally nondiscriminatory.

b. Administered in the native language or mode of communication of the child, unless it clearly is not feasible to do so.

c. Validated for the specific purpose for which they are used or intended to be used.

d. Administered by qualified personnel in conformity with the instructions provided by the producers of the testing device.

e. Administered in a manner that no single procedure is the sole criterion for determining an appropriate educational program for a handicapped child.

f. Selected to assess specific areas of educational need, not merely to provide a single general intelligence quotient.

3. The evaluation shall be conducted by a multidisciplinary team or group of persons, and shall include a teacher or other specialist with knowledge in the area of the suspected disability.

4. The child shall be evaluated in all areas related to the suspected disability. At a minimum, the evaluation shall include:

a. The current level of functioning academically, socially, and within the family.

b. Visual and auditory acuity.

c. Observation in an educational environment.

d. Current physical status, including perceptual and motor abilities.

e. Vocational educational assessment, where appropriate.

5. The regional or school CSC shall issue a written report that contains:

a. A description of the nature and severity of the child's handicapping condition.

b. A review of the formal and informal diagnostic evaluation findings of the multidisciplinary team.

c. A summary of information from the parents or guardians, the child, or other persons having significant previous contact with the child.

d. A description of the child's current academic progress, including a statement of the child's learning style.

6. The appropriate CSC shall meet as soon as practicable after the child's formal evaluation to determine whether he or she is in need of special education and related services. The child's parents or guardians shall be afforded the opportunity to participate in such a meeting.

7. A handicapped child shall receive an individual comprehensive diagnostic evaluation every 3 years, or more frequently if conditions warrant. The scope and nature of the reevaluation will be determined individually based upon the child's performance, behavior, and needs when the reassessment is conducted.

C. Individualized Education Program

1. DoDDS shall ensure that an IEP is developed and implemented for each handicapped child enrolled in a DoDDS school or placed in another institution by DoDDS pursuant to this Part.

2. Each IEP shall include: a. A statement of the present levels of educational performance of the child.

b. A statement of annual goals, including short-term instructional objectives.

c. A statement of specific educational and recreational activities and related services to be provided to the child, and the extent to which the child may be able to participate in regular educational programs.

d. The projected date for the initiation and the anticipated length of such activities and services.

e. Appropriate objective criteria and evaluation procedures and schedules for determining, on an annual basis, whether educational objectives are being achieved.

3. The IEP of each handicapped child shall provide for the opportunity to participate, with adaptations where appropriate, in the regular physical education program available to nonhandicapped children unless:

a. The handicapped child is enrolled full-time in a separate facility; or

b. The handicapped child needs specially designed physical education, as prescribed in the child's IEP.

4. If specially designed physical education services are prescribed in a handicapped child's IEP, DoDDS shall provide such education directly, or make arrangements for the services to be provided through private or other public facilities.

5. DoDDS shall ensure that a handicapped child enrolled in a separate facility receives appropriate physical education services in compliance with this Part.

6. The IEP for each handicapped child shall be developed and later reviewed and, if appropriate, revised at least annually in meetings that include the following participants:

a. The child's teacher.

b. The principal or a representative of the DoDDS school, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

c. One or both of the child's parents or the child's guardian.

d. The child, if this is appropriate.

e. A member of the evaluation team, the child's teacher or another person knowledgeable about the evaluation procedures used with the child and familiar with the results of the evaluation.

f. Other individuals, at the reasonable discretion of the parents or guardian, or DoDDS.

7. Each DoDDS school shall:

a. Ensure that an IEP is in effect before a child receives special education and related services. If a child with a current IEP transfers to or from a school within DoDDS, the CSC of the receiving school or region may, at its discretion, implement the current IEP, initiate a meeting to revise the current IEP, or initiate an evaluation of the child.

b. Ensure that an IEP meeting is held, following a determination by the school or regional CSC that the child needs special education and related services.

c. Afford the child's parents or guardians the opportunity to participate in every IEP meeting concerning their child by:

(1) Providing the parents or guardians adequate notice of the time and place of the meeting.

(2) Attempting to schedule the meeting at a mutually agreeable time and place.

8. A meeting may be conducted without a parent or guardian in attendance if the school is unable to convince a parent or guardian to attend. In this case, the school must have a written record of its attempts to arrange a mutually acceptable time and place.

9. If the parents or guardian attends the IEP meeting, the school shall take necessary action to ensure that at least one of the parents or the guardian understands the proceedings at the meetng, including providing an interpreter for a parent or guardian who is deaf or whose native language is other than English.

10. If neither parent or the guardian can attend the meeting, other methods to promote participation by the parent or guardian shall be used.

11. The school shall give a parent or guardian a copy of the child's IEP.

12. Each DoDDS school shall provide special education and related services, in accordance with an IEP, provided that neither DoDDS, its constituent elements, nor its personnel are accountable if a child does not achieve the growth projected in the IEP.

13. DoDDS shall ensure that an IEP is developed and implemented for each handicapped child whom DoDDS places in a non-DoDDS school or other facility.

D. Placement Procedures And Least Restrictive Environment

1. The placement of a child in any special education program by DoDDS shall be effecteed only pursuant to an IEP after a determination, under this Part, has been made that a child is handicapped and needs special education and related services.

2. The appropriate CSC shall meet as soon as is practicable following the development of a handicapped child's IEP to identify the personnel who will provide the child with special education and related services pursuant to the IEP.

3. A placement decision may not be implemented without the consent of a parent or guardian of the child, except as otherwise provided herein.

4. The placement decision must be designed to educate a handicapped child in the least restrictive environment, so the child is educated to the maximum extent appropriate with children who are not handicapped. Special classes, separate schooling, or other removal of handicapped children from the regular educational environment shall occur only when the nature or severity of the handicap is such that the child cannot be educated satisfactorily in regular classes with the use of supplementary aids and services.

5. Each handicapped child's educational placement shall be:

a. Determined at least annually by the appropriate CSC.

b. Based on the child's IEP.

c. Located as close as possible to the residence of the sponsoring parent or guardian.

d. Designed to assign the child to the school the child would attend if not handicapped, unless the IEP requires some other arrangement.

e. Predicated on the consideration of all factors affecting the child's well-being, including the effects of separation from parents or guardian.

E. Handicapped Children In Private Schools

1. Handicapped children eligible to receive instruction in DoDDS who are referred to a non-DoDDS school or facility by DoDDS have all the rights of handicapped children who are enrolled in DoDDS schools.

a. If DoDDS places a handicapped child in a non-DoDDS school or facility as a means of providing special education and related services, the program of that institution, including nonmedical care, room, and board, as set forth in the child's IEP, must be at no cost to the child or the child's parents or guardian.

b. DoDDS may place a handicapped child in a non-DoDDs school or facility only if required by an IEP. An IEP for a student placed in a non-DoDDS school is not valid until signed by an authorized DoDDS official. The IEP shall include determinations that:

(1) DoDDS does not currently have an educational program appropriate to meet the needs of the handicapped child.

(2) The non-DoDDS school or facility and its educational program conform to this Part.

2. DoDDS is not responsible for the cost of a non-DoDDS placement, unless it is authorized by the appropriate DoDDS regional office in coordination with DoDDS Headquarters pursuant to a valid IEP, or is directed by an impartial hearing officer or court of competent jurisdiction.

3. Non-DoDDS placements by DoDDS shall be:

a. In accordance with host nation requirements.

b. Subject to all treaties, executive agreements, and status of forces agreements between the United States and host nations, and all DoD and DoDDS regulations.

c. As close as possible to the DoDDS school that the handicapped child attends or would otherwise attend.

4. Before DoDDS places a handicapped child in a non-DoDDS school or facility, DoDDS shall conduct a meeting in accordance with this Part to develop an IEP for the child.

F. Procedural Safeguards

1. Parents or a guardian shall be given written notice before DoDDS proposes to initiate or change, or refuses to initiate or change, either the identification, evaluation, or educational placement of a child receiving or entitled to receive special education and related services from DoDDS, or the provision of a free appropriate public education by DoDDS to the child. The notice shall fully inform a parent or guardian of the procedural rights conferred by this Part.

2. The consent of a parent or guardian of a child who is handicapped or is suspected of having a handicap shall be obtained before any:

a. Initiation of formal evaluation procedures.

b. Change in educational placement.

c. Initial educational placement.

3. If the parent or guardian refuses consent to any formal evaluation or initial placement in a special education program, DoDDS may initiate an impartial due process hearing under Appendix 2 of this Part to show cause why an evaluation or placement in a special educational program should occur without such consent. If the hearing officer sustains the DoDDS position in the impartial due process hearing, the appropriate DoDDS school may evaluate or provide special education and related services to the child

without the consent of a parent or guardian, subject to the parents' or guardians' due process rights.

4. A parent or guardian is entitled to an independent evaluation of his or her child at DoDDS expense if the parent or guardian disagrees with the findings of an evaluation of the child, conducted by the school, and the parent or guardian successfully challenges the evaluation in an impartial due process hearing.

a. If an independent evaluation is provided at the expense of DoDDS, it must meet the following criteria:

(1) Conform to the requirements of this Instruction.

(2) Be conducted, where possible, within the area where the child resides.

(3) Follow all DoD regulations regarding the host nation.

(4) Meet DoDDS standards governing persons qualified to conduct an educational evaluation.

b. If the final decision rendered in an impartial due process hearing sustains the evaluation of the CSC, the parent or guardian has the right to an independent evaluation, but not at DoDDS expense.

5. The parents or guardians of a handicapped child shall be afforded an opportunity to inspect and review all educational records concerning not only the identification, evaluation, and educational placement of the child, but also the provision of a free appropriate public education to the child.

6. Upon complaint, the parent or guardian of a handicapped child shall have the opportunity for an impartial due process hearing provided by DoDDS, in accordance With Appendix 2 of this Part.

7. During the pendency of any impartial due process hearing or judicial proceeding regarding the identification, evaluation, or educational placement of a handicapped child receiving an education from DoDDS or the provision of a free public education to such a child, unless DoDDS and a parent or guardian of the child agree otherwise, the child shall ramain in his or her present educational placement, subject to the disciplinary procedures prescribed by this Part.

8. If a handicapped child who is entitled to receive an education from DoDDS is applying for initial admission to a DoDDS school, the child shall enter the DoDDS system on the same basis as a non-handicapped child. However, a handicapped child, with the consent of a parent or guardian, may receive an initial placement in a special education program comparable to the child's program prior to entering DoDDS, until all due process and judicial proceedings have been completed.

9. The General Counsel of the Department of Defense is authorized to modify appendix 2.

10. The parent or guardian of a handicapped child or a DoD employee may file a written complaint with the appropriate DoDDS regional office concerning a possible violation of this Part or Pub. L. 94-142.

G. Confidentiality of Records

DoDDS shall maintain all student records under this Instruction in conformity with section 286a of this title.

H. Disciplinary Procedures

1. All regular disciplinary rules and procedures applicable to children receiving educational instruction in DoDDS shall apply to handicapped children who violate school rules and regulations or disrupt regular classroom activities, subject to the provisons of this section.

2. Prior to the suspension or explusion of a handicapped child, the appropriate CSC or, in the case of a handicapped child in a non-DoDDS school, authorized DoDDS officials shall determine whether the child's conduct is the result of the child's handicapping condition.

3. If the CSC or authorized DoDDS officials determine that the child's conduct results in whole or part from his or her handicapping conditon, the child may not be subject to any regular disciplinary rules and procedures, and:

a. The child's parents or guardians shall be notified in accordance with this Part of the right to have an IEP meeting before any change in the child's educational placement.

b. The CSC or authorized DoDDS officials shall ensure that a meeting is held to determine the appropriate educational placement for the child in consideration of his or her conduct.

4. A handicapped child shall neither be suspended, expelled, nor his or her educational placement otherwise changed unless in accordance with this section, except that:

a. This section shall be applicable only to children determined to be handicapped under this Part.

b. Nothing contained herein shall perclude the emergency suspension of any handicapped child who endangers or reasonably appears to endanger the health, welfare, or safety of himself or herself, or any other child, teacher, or school personnel, provided that:

(1) The appropriate CSC or authorized DoDDS officials shall immediately meet to determine whether the child's conduct results from his or her handicapping condition and what change in educational placement is appropriate for the child.

(2) The child's parents or guardian shall be notified immediately of the child's suspension, and the time and location of, and their right to attend, the meeting.

(3) The suspension of the child is only effective for the duration of the emergency.

Appendix 2—Hearing Procedures

A. Purpose

This appendix establishes adjudicative requirements whereby the parents or guardians of handicapped children and DoDDS are afforded impartial due process hearings with respect to the identification, evaluation, and educational placement of, and the free appropriate public education provided to, such children by the Department of Defense, in accordance with Pub. L. 94-142 and Pub. L. 95-561.

B. Administration

1. The DoDDS Regional Director with responsibility for the handicapped child whose education is at issue shall be responsible for the hearings conducted under this enclosure.

2. This enclosure shall be administered to assure that the findings, judgments, and determinations made are prompt, fair, and impartial.

3. Impartial hearing officers shall be appointed by the ASD(MRA&L), or designee, and shall be attorneys who are independent of DoDDS and members in good standing of the bar of any state, the District of Columbia, or a territory or possession of the United States.

4. Counsel shall normally appear and represent DoDDS in proceedings conducted under this enclosure. A parent or guardian shall have the right to be represented in such proceedings at no cost to the government by qualified counsel or a personal representative.

C. Mediation

1. Mediation may be initiated by a parent, guardian or DoDDS in order to resolve informally a disagreement with respect to the identification, evaluation, or educational placement of, or the free appropriate public education provided to, a child. Mediation shall consist of but not be limited to an informal discussion of the differences between the parties in an effort to resolve those differences. The parents or guardians and the appropriate school officials may attend mediation sessions.

2. Mediation must be conducted, attempted, or refused in writing by a parent or guardian of the handicapped child whose education is at issue, before a request for or initiation of a hearing authorized by this enclosure. Any request by DoDDS for a hearing under this enclosure shall state how this requirement has been sastisfied. No stigma may attach to the refusal of a parent or guardian to mediate or to an unsuccessful attempt to mediate.

D. Practice and Procedure

1. *Hearing.* a. Should mediation be refused or otherwise fail to resolve the issues concerning the provision of a free appropriate public education to a handicapped child or the identification, evaluation, or educational placement of the child, the child's parent or guardian or the school principal having jurisdiction over the child may request and shall receive a hearing before a hearing officer to resolve the matter. The parents or guardian of a handicapped child whose education is at issue and DoDDS shall be the only parties to a hearing conducted under this enclosure.

b. The party seeking the hearing shall submit a written request, in the form of a petition setting forth the facts, issues, and proposed relief, to the DoDDS Regional Director who has responsibility for the handicapped child. The petitioner shall deliver a copy of the petition to the opposing party (that is, the parent or guardian, or, on behalf of DoDDS, the school principal), either in person or by first-class mail, postage prepaid. Delivery is complete upon mailing.

When DoDDS petitions for a hearing, it shall inform the other parties of the deadline for filing an answer under paragraph D.1.c., below, and shall provide the other parties with a copy of this enclosure.

c. An opposing party shall submit an answer to the petition to the appropriate Regional Director, with a copy to the petitioner, within 20 calendar days of receipt of the petition. The answer shall be as full and complete as possible, addressing the issues, facts, and proposed relief.

d. Within 10 calendar days after receiving the petition, the Regional Director shall obtain the assignment of a hearing officer, who shall then have jurisdiction over the resulting proceeding. The Regional Director shall promptly forward all pleadings to the hearing officer.

e. The questions for adjudication shall be based on the petition and the answer, provided that a party may amend a pleading if the amendment is filed with the hearing officer and received by the other parties at least 5 calendar days before the hearing.

f. The Regional Director shall arrange for the time and place of the hearing, and shall provide administrative support. Such arrangements shall be reasonably convenient to the parties.

g. The purpose of a hearing is to establish the relevant facts necessary for the hearing officer to reach a fair and impartial determination of the case. Oral and documentary evidence that is relevant and material may be received. The technical rules of evidence shall be relaxed to permit the development of a full evidentiary record, with the Federal Rules of Evidence serving as a guide.

h. The hearing officer shall be the presiding officer, with judicial powers to manage the proceeding and conduct the hearing. Those powers shall include, but not be limited to, the authority to order an independent evaluation of the child at the expense of DoDDS and to call and question witnesses.

i. Those normally authorized to attend a hearing shall be the parents or guardian of the child, the counsel and personal representative of the parents or guardian, the counsel and professional employees of DoDDS, the hearing officer, and an individual qualified to transcribe or record the proceedings. The hearing officer may permit other persons to attend the hearing, consistent with the privacy interests of the parents or guardian and the child, provided the parents or guardian has the right to an open hearing upon waiving in writing his, her or their privacy rights and those of the child.

j. A verbatim transcription of the hearing shall be made in written or electronic form and shall become a permanent part of the record. A copy of the written transcript or electronic recording shall be made available to a parent or guardian upon request and without cost. The hearing officer may allow corrections to the written transcript or electronic recording for the purpose of conforming it to actual testimony after adequate notice of such changes is given to all parties.

k. The hearing officer's decision of the case shall be based on the record, which shall include the petition; the answer; the written transcript or the electronic recording of the hearing; exhibits admitted into evidence; pleadings or correspondence properly filed and served on all parties; and such other matters as the hearing officer may include in the record, provided that such matter is made available to all parties before the record is closed under paragraph D.1.m., below.

l. The hearing officer shall make a full and complete record of a case presented for adjudication.

m. The hearing officer shall decide when the record in a case is closed.

n. The hearing officer shall issue findings of fact and render a decision in a case not later than 60 calendar days after being assigned to the case, unless a discovery request under subsecton D.2, below, is pending.

2. *Discovery.* a. Full and complete discovery shall be available to parties to the proceeding, with the Federal Rules of Civil Procedure serving as a guide.

b. If voluntary discovery cannot be accomplished, a party seeking discovery may file a motion to accomplish discovery, provided such motion is founded on the relevance and materiality of the proposed discovery to the issues. An order granting discovery shall be enforceable as is an order compelling testimony or the production of evidence.

c. A copy of the written or electronic transcription of a deposition taken by DoDDS shall be made available free of charge to a parent or guardian.

3. *Witnesses; Production of Evidence.* a. All witnesses testifying at the hearing shall be advised that it is a criminal offense knowingly and willfully to make a false statement or representation to a department or agency of the United States Government as to any matter within the jurisdiction of that department or agency. All witnesses shall be subject to cross-examination by the parties.

b. A party calling a witness shall bear the witness' travel and incidental expenses associated with testifying at the hearing. DoDDS shall pay such expenses when a witness is called by the hearing officer.

c. The hearing officer may issue an order compelling the attendance of witnesses or the production of evidence upon his own motion or, if good cause be shown, upon motion of a party.

d. When the hearing officer determines that a person has failed to obey an order to testify or to produce evidence, and such failure is in knowing and willful disregard of the order, the hearing officer shall so certify.

e. The party or the hearing officer seeking to compel testimony or the production of evidence may, upon the certification provided for in paragraph D.3.d., above, file an appropriate action in a court of competent jurisdiction to compel compliance with the hearing officer's order.

4. *Hearing Officer's Findings of Fact and Decision.* a. The hearing officer shall make written findings of fact and issue a decision setting forth the questions presented, the resolution of those questions, and the rationale for the resolution. The hearing officer shall file the findings of fact and decision with the appropriate Regional Director, with a copy of each party.

b. The Regional Director shall forward a copy of the hearing officer's findings of fact and decision, with all personally identifiable information deleted, to the National Advisory Panel.

c. The hearing officer shall have the authority to impose financial responsibility for educational placements, evaluation, and related services under his or her findings of fact and decision.

d. The findings of fact and decision of the hearing officer shall become final unless a notice of appeal is filed under paragraph F.1., below. DoDDS shall implement a decision as soon as practicable after it becomes final.

E. Determination Without Hearing

1. At the request of a parent or guardian of the handicapped child whose education is at issue, the requirement for a hearing may be waived and the case may be submitted to the hearing officer on written documents filed by the parties. The hearing officer shall make findings of fact and issue a decision within the period fixed by section D.1.n., above.

2. DoDDS may oppose a request to waive the hearing. In that event, the hearing officer shall rule on the request.

3. Documents submitted to the hearing officer in a case determined without hearing shall comply with section D.1.g., above. A party submitting such documents shall provide copies to all other parties.

F. Appeal

1. A party may appeal the hearing officer's findings of fact and decision by filing a written notice of appeal with the ASD (MRA&L), or designee, within 5 calendar days of receipt of the findings of fact and decision. The notice of appeal must contain the appellant's certification that a copy of the notice of appeal has been provided to all other parties. Filing is complete upon mailing.

2. Within 15 calendar days of filing the notice of appeal, the appellant shall submit a written statement of issues and arguments to the ASD(MRA&L), or designee, with a copy to the other parties. The other parties shall submit a reply or replies to the ASD(MRA&L), or designee, within 15 calendar days of receiving the statement, and shall deliver a copy of each reply to the appellant. Submission is complete upon mailing.

3. The ASD(MRA&L), or designee, shall determine the matter on appeal, including the making of interlocutory rulings, within 20 calendar days of receiving timely submitted replies under paragraph F.2., above. The ASD(MRA&L), or designee, may request oral argument at a time and place reasonably convenient to the parties.

4. The determination of the ASD(MRA&L), or designee, shall be a final administrative decision and be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent or guardian in whole or in part shall state that the parent or guaradian has the right under Pub. L. 94–142 to bring a civil action with respect to the matters in dispute in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

5. No provision of this enclosure or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this enclosure before seeking judicial review of a determination made under this enclosure.

G. Publication and Indexing of Final Decisions

Final decisions in cases arising under this enclosure shall be published and indexed in accordance with § 286 of this title to protect the privacy rights of the parents, guardians, and children who are parties in those cases.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 2, 1981.

[FR Doc. 81-26583 Filed 9-10-81; 8:45 am]

BILLING CODE 3810-01-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting for 10:00 am, on September 22, 1981, to consider Notice of Proposed Rulemaking (NPRM) to rescind the ATBCB Minimum Guidelines and Requirements for Accessible Design, published in the Federal Register as a Final Rule on January 16, 1981. Extension of the public comment period on NPRM; regulatory analysis on NPRM; nationwide public hearings on ATBCB Guidelines and Requirements; involvement of ANSI in public hearings on ATBCB Guidelines and Requirements; ATBCB funding of public participation in the rulemaking process; Advanced Notice of Proposed Rulemaking (ANPRM); ATBCB research agreement; the ATBCB Annual Report for 1980; and proposed election of a Vice Chairperson as authorized by ATBCB Statement of Organization and Procedure are also on the agenda for action by the ATBCB.

DATES: The ATBCB meeting will be held on September 22, 1981, 10:00 a.m. until 5:00 p.m. The ATBCB Committee meeting will be held on September 21, 1981 from 9:30 a.m. until 5:00 p.m.

ADDRESSES: The meeting of the Board will be held at the DAV National Service and Legislative Headquarters, 807 Maine Avenue, SW., Washington, D.C. beginning at 10:00 a.m. until 5:00 p.m.

The ATBCB Committee meetings will be held in Rooms 303A and 305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD).

SUPPLEMENTARY INFORMATION: The meeting of the ATBCB will enable the Board to further consider developments, including modification, rescission, amendment, of its accessibility rule adopted January 6, 1981. 46 FR 4270. Contact Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD), for exact time of each committee meeting.

Mason H. Rose, V,

Chairperson.

[FR Doc. 81-26316 Filed 9-10-81; 8:45 am]

BILLING CODE 4000-07-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM81-2]

Rules of Practice and Procedure for Introducing Studies and Analyses into Testimony

September 3, 1981.

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: To facilitate more expeditious and efficient analyses of evidentiary presentations based upon computer-generated data, we are considering changes to our Rules of Practice and Procedure which would require parties relying upon computer studies to make available certain supporting materials. In addition, we contemplate changes expanding the applicability and expediting the operation of our rule governing the introduction of studies and analyses.

DATES: Comments must be received on or before September 30, 1981.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 500, 2000 L Street, NW., Washington, D.C. 20268; (202) 254–3824.

SUPPLEMENTARY INFORMATION:

Computer Studies

Experience in recent Commission proceedings, particularly Postal Rate and Fee Changes, 1981 (Docket No. R80–1), has highlighted the need for a separate rule governing computer studies and analyses. An increasingly large percentage of the testimony offered in evidence before the Commission utilizes computer-generated data, much of which is prepared on a sophisticated technical level. This trend, which mirrors technological advances in other areas, is welcomed because of the savings that can be realized in both time and resources.

A properly programmed computer can perform millions of calculations in a matter of minutes or even seconds. In the area of postal ratemaking, where it is necessary to estimate total costs for the Postal Service on the basis of multi-faceted assumptions about the nation's economy, projections of future mail volume, and various other parameters of postal operations, reliance upon computers is virtually a must. Computerization permits a substantially more comprehensive level of analysis and greater assurances of accuracy than would otherwise be obtainable within given time and resource constraints. It thus represents an important step forward in the evolution of postal ratemaking, and is fully consistent with the Postal Reorganization Act and the court decisions interpreting it.

Notwithstanding the advantages, reliance upon computer models, studies and analyses raises evidentiary concerns which cannot be overlooked. Participants in our proceedings frequently base evidence upon the results of computer analyses without providing the input data, computer programs, and other information necessary to test and/or replicate them. From an evidentiary standpoint such an offer is lacking because it does not provide sufficient assurances that the computer output is precisely what it purports to be. As one commentator has noted:

> A computer is merely a device constructed of electronics circuitry; it has no mind with which to examine the thought processes of its programmer. Therefore, if a step in a formula is omitted or improperly translated by the programmer, the computer will nonetheless continue to perform the calculation, albeit incorrectly, on all data entered for its operations.

Note, "Computer-Nourished Experts: An Evidentiary and Procedural Perspective," 33 *Brooklyn L. Rev.* 1119, 1133 (1977) (footnote omitted). There are innumerable opportunities for error when dealing with computers:

> * * * The possibility of an undetected error in computer-generated evidence is a function of many factors: the underlying data may be hearsay; errors may be introduced in any one of several stages of processing; the computer might be erroneously programmed,

programmed to permit an error to go undetected, or programmed to introduce error into the data; and the computer may inaccurately display the data or display it in a biased manner.

Roberts, "A Practitioner's Primer on Computer-Generated Evidence," 41 *U. Chi. L. Rev.* 254, 255–56 (1954).

The *Manual for Complex Litigation* recognizes these shortcomings and recommends that "[c]omputer inputs and outputs, the underlying data and the program method employed should be made available to the opposing party in advance of trial as a condition of admissibility." 1 Pt. 2 *Moore's Federal Practice*, Part 1, 2.717. This is essentially the standard which we adopted in Docket No. R80–1, with respect to the Postal Service's roll-forward program, and we continue to believe that it is the correct one for the consideration of computer studies or analyses. *See* Orders No. 346, 349 and 350; *United States* v. *Dioguari*, 428 F. 2d 1033 (2d Cir. 1970); *United States* v. *Russo*, 480 F. 2d 1228 (6th Cir. 1973); *United States* v. *Liebert*, 519 F. 2d 542 (3rd Cir. 1975); *Pearl Brewing Co.* v. *Joseph Schlitz Brewing Co.*, 415 F. Supp. 1122 (S.D. Tex. 1976).

In the proposed amendment to our rules we have included all the information or materials which the Commission required with respect to the roll-forward program in Docket No. R80–1, as well as a general provision permitting the Commission to require the production of any other information which is necessary to test or replicate the results of a computer analysis. The general provision is included because of the difficulty of identifying in advance all types of information which may be needed to analyze the different types of computer studies—many of which are custom-tailored—relied upon in Commission proceedings.

The proposed rule would permit the party requesting the production of input and output data, programs, and other relevant information to specify production in a computer-readable format, as opposed to hard copy. Again, this change conforms to the position we adopted in Docket No. R80–1, and it is well supported by the case law. *See* Order No. 346, at 21–24; *Adams* v. *Dan River Mills*, 54 F.R.D. 220 (W.D. Va., 1972); *United States* v. *Davey*, 543 F. 2d 996 (2nd Cir. 1976); *National Union Electric Corp.* v. *Matsushita Electric Industrial Company, Ltd.*, 494 F. 2d 1257 (5th Cir. 1980). Because the cost of producing such data in a computer-readable format may be relatively high, the proposed rule would require such costs to be borne by the requesting party, unless the request is made by the Commission.

Other Matters

The proposed amendments to our rules would also extend the applicability of sections 1 and 2 of Rule 31(k) (39 CFR 3001.31(k)) to studies and analyses which are to be relied upon as support for other evidence, even if the studies and analyses themselves are not to be offered in evidence. The need for this change was likewise demonstrated by our experience of recent years. Witnesses in our proceedings have frequently sought to rely upon studies and analyses as the basis for their conclusions without offering such studies and analyses in evidence or providing the basic information necessary to establish their reliability. As a result, opposing parties may be disadvantaged by the lack of an adequate opportunity to test the findings from which conclusions are drawn. The proposed rule would assure uniform treatment of studies and analyses when they are used as the foundation for evidentiary presentations, thereby guaranteeing the right of parties to examine and test all material relied upon by their opponents.

Finally, the proposed amendments include the addition of a new paragraph at the end of Rule 31(k), the purpose of which would be to expedite responses to requests made pursuant thereto. Given the centrality of studies and analyses to the testimony in our proceedings, the need for such a requirement stems directly from our statutory obligation to conduct proceedings with the "utmost expedition consistent with procedural fairness to the parties." 39 U.S.C. 3624(b).

PART 3001—RULES OF PRACTICE AND PROCEDURE

Rule 31(k) (39 CFR 3001.31(k)) follows with the proposed additions enclosed in arrows. Section 3001.31(k) is proposed to be revised to read as follows:

§ 3001.31 Evidence.

* * * * *

(k) *Introduction* ►*and reliance upon*◄ *studies and analysis.* (1) ►*General.*◄ In the case of all studies and analysis offered in evidence in hearing proceedings ►or relied upon as support for other evidence,◄ other than the kinds described in paragraph►s◄ (k)(2) ►and (k)(3)◄ of this section, there shall be a clear statement of the study plan, all relevant assumptions and a description of the techniques of data collection, estimation and/or testing. In addition, there shall be a clear statement of the facts and judgements upon which conclusions are based, together with an indication of the alternative courses of action considered. Tabulations of input data shall be made available upon request at the offices of the Commission.

(2) ►*Statistical studies.*◄ Upon proper request all statistical studies offered in evidence in hearing proceedings ►or relied upon as support for other evidence,◄ shall be described in a summary statement with supplementary details added in appendices so as to give a comprehensive delineation of the assumptions made, the study plan utilized and the procedures undertaken. For example, for each of the following types of statistical studies, the following indicated information should be furnished:

(i) *Sample surveys.* (*a*) A clear description of the survey design, including the definition of the universe under study, the sampling frame and units, and the validity and confidence limits that can be placed on major estimates; and

(*b*) An explanation of the method of selecting the sample and the characteristics measured or counted.

(ii) *Econometric investigations.* (*a*) A complete description of the econometric model and the reasons for each assumption and statistical specification;

(*b*) A clear statement as to the effects on the final result of changes in the assumptions; and

(*c*) Upon request, make available alternative studies which may have been made, which employed alternative models and variables.

(iii) *Experimental analyses.* (*a*) A complete description of the experimental design, including a specification of the controlled conditions and how the controls were realized; and

(*b*) A complete description of the methods of making observations and the adjustment, if any, to observed data.

(iv) *All studies involving statistical methodology.* (*a*) The formula used for statistical estimates;

(*b*) The standard errors of each component estimated;

(*c*) Test statistics and the description of statistical tests and all related computations, and final results; and

(*d*) Summary descriptions of input data, and upon request the actual input data shall be made available at the offices of the Commission.

► (3) *Computer analyses.* (i) In the case of computer studies or analyses which are being offered in evidence, or relied upon as support for other evidence, in addition to any information

required by paragraph (2) of this section, the following shall be furnished:

(*a*) The model name and number of the computer and/or terminal upon which the program was run;

(*b*) Information as to input and output procedures and system reliability;

(*c*) The name of the computer's operating system;

(*d*) If a timesharing vendor is used, the name and location of the vendor; and

(*e*) A general description of the program, including the language in which it is written, and the processes which it performs.

(ii) Upon request of a party, the Commission, or the Presiding Officer, the following shall also be furnished:

(*a*) All data input and output for any computer run relied upon in the study or analysis;

(*b*) All operating manuals for the hardware and software used to run the program;

(*c*) A listing of source codes together with complete documentation; and

(*d*) Any other information which the Presiding Officer or the Commission determines necessary to test or replicate the results of the computer analysis at issue.

(iii) All requests made pursuant to paragraphs (k)(3)(ii) (*a*), (*c*) and (*d*) of this section shall indicate whether production is requested in hard-copy or a computer-readable format.

(*a*) When computer-readable format is requested, the requesting party may specify any widely-employed format, including card decks, magnetic tapes and disks.

(*b*) When the requester is other than the Commission or the Presiding Officer, the cost of producing a computer-readable format shall be borne by the requesting party unless otherwise agreed upon with the requestee.

(4) *Expedition.* The offeror shall expedite responses to requests made pursuant to this section. Responses shall be served on the requesting party, and notice thereof filed with the Secretary in accordance with the provisions of § 3001.12, no later than 20 days after a request is made.◄

(39 U.S.C. Secs. 3603, 3624)

Note.—Pursuant to Executive Order 12291, the Commission finds that the proposed rule changes do not constitute a "major rule." The cost of compliance should be minimal because parties relying upon computer studies will generally have all of the required information readily available. Nor will the changes have any adverse effects on competition, employment or the other factors listed in E.O. 12291.

David F. Harris,

Secretary.

[FR Doc. 81-26521 Filed 9-10-81; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 1913-5]

Approval and Promulgation of Implementation Plans; Connecticut Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Proposed revisions to four regulations of the Connecticut State Implementation Plan (SIP) were submitted to EPA by the Director of the Air Compliance Unit of the Connecticut Department of Environmental Protection (CT DEP) on July 7, 1981. The first revision will change regulation 19-508-19 and its narrative explanation to (1) raise the existing statewide sulfur-in-fuel limit from 0.5% sulfur by weight (dry basis) to 1.0%, (2) delineate provisions under which use of fuels with other than 1% sulfur content may be approved, (3) specify an alternative allowable emission rate of 1.1 pounds of sulfur dioxide (SO_2) per million British Thermal Units (mBtu) heat input and, (4) clarify the portion of this regulation that is the basis for the EPA-approved "Air Pollution Control/Energy Trade" program. EPA proposes to approve this revision as to oil but not as to coal or other solid fuels.

EPA also proposes to approve the second revision, which will repeal the state's annual and 24-hour secondary SO_2 standards found in regulation 19-508-24(e), and the third revision, which will change regulation 19-508-20 to extend the annual time period during which natural gas burners are not required for control of volatile organic compounds (VOCs). A fourth revision will change regulation 19-508-18(d) to reduce the total suspended particulate (TSP) emission rate for oil burning equipment from 0.2 to 0.14 pounds of TSP per mBtu, and revise regulation 19-508-18(f) to reduce the allowable TSP emissions from iron foundries, hot mix asphalt plants, and foundry sand processes. EPA proposes to take no action on these revisions at this time, but to act on them in a separate rulemaking.

EPA's review is being conducted concurrently with public review of the same revisions at the state level. This concurrent review prior to final state regulatory action, which EPA refers to as "parallel processing," is designed to reduce the time necessary for EPA approval of SIP revisions and is being used on a trial basis by Region I.

DATE: Comments must be received on or before October 13, 1981. Comments should be submitted to Harley F. Laing, Chief, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

ADDRESSES: Copies of the Connecticut submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; the Office of the Federal Register, 110 L Street, NW., Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

I. Revisions to Regulation 19-508-19: Control of Sulfur Compound Emissions

A. Background

The CT DEP has proposed a statewide revision to its fuel burning requirements to allow Connecticut's business and industry to burn 1% sulfur fuel, a type of fuel that is both cheaper and higher in sulfur content than that currently used. In the early 1970s, Connecticut adopted as part of its SIP a statewide 0.5% sulfur-in-fuel limitation. This strategy eliminated all violations of both the health- and welfare-related standards for sulfur oxides across the state and resulted in ambient air quality levels of SO_2 well below the National Ambient Air Quality Standards (NAAQS). However, this control strategy was developed at a time of comparatively low differential cost between low and high sulfur fuels. With the current higher price differential, the DEP believes that a statewide 1% sulfur-in-fuel limit is appropriate.

B. Modeling

If all heavy users burn 1% sulfur oil instead of 0.5%, the existing limitation, this revision will increase SO_2 emissions

from 73,000 tons per year to approximately 120,000 tons. With participation by EPA Region I, the DEP has prepared a demonstration that this increase will not violate the NAAQS for SO_2. In performing the modeling for this demonstration, an emission rate of 1.1 pounds per mBtu, approximately equivalent to the use of 1% sulfur oil, was used.

In urban areas, the attainment demonstration used annual, multi-source modeling with EPA's CDMQC model. An EPA recognized statistical technique (Larsen's) was used to convert the projected annual results into short-term concentrations. The CDMQC analysis employed a statewide emissions inventory provided by the CT DEP and other emissions data for the New York metropolitan area. Connecticut sources with actual SO_2 emissions equal to or greater than 15 tons per year were modeled as point sources, while sources with lesser emissions were aggregated and modeled as area sources. Within the New York metropolitan area, sources with actual SO_2 emissions equal to or greater than 100 tons per year were modeled as point sources, while the others were modeled as area sources. Meteorological data from Bridgeport, CT, Bradley Field (Windsor Locks, CT), and Newark, New Jersey were used in the modeling calculations.

Modeling was performed for the existing emissions at 0.5% sulfur oil (base case) with receptors at monitor locations and out-of-state areas where a Prevention of Significant Deterioration (PSD) baseline has been established. The model was also run for conditions anticipated after the revision (strategy case) with three additional groups of receptors conforming to EPA requirements.

Since the CDMQC model is designed only for use in urban areas, in rural areas DEP used procedures recommended in Connecticut's screening model, the *New Source Ambient Impact Analysis Guideline (CT Modeling Guideline)*, which has been approved by EPA. The DEP used the *CT Modeling Guideline* to determine whether impacts of the 35 rural (as defined in EPA's *Guideline on Air Quality Models* and subsequent guidance) major sources (those with potential emissions of 100 tons per year) would violate the NAAQS. As recommended by the *CT Modeling Guideline*, the modeled impacts of each major subject source were added to the modeled impacts of nearby 15-ton or greater sources. To that concentration, a background level appropriate for each source was added to obtain 3-hour, 24-hour and annual concentration estimates.

The results of the urban analyses indicate that there will be no violation of any NAAQS for SO_2. The results of the rural screening analyses indicate that there will be violations of the NAAQS at 17 locations: (1) The HELCO Power Station in Middletown, (2) Connecticut Light and Power in Montville, (3) Federal Paperboard in Sprague, (4) University of Connecticut in Storrs, (5) Pratt and Whitney in Middletown, (6) Combustion Engineering in Windsor, (7) Kimberly Clark in New Milford, (8) Connecticut Paper Company in Uncasville, (9) Pratt and Whitney in North Haven, (10) New Departure Hyatt in Bristol, (11) Sikorsky Air Division in Stratford, (12) Dow Chemical Company in Gales Ferry, (13) American Thread Company in Willimantic, (14) Nestle Company in New Milford, (15) Plasticrete Corporation in North Haven, (16) Uniroyal in Naugatuck, and (17) Allegheny Ludlum in Wallingford. Thus, more refined modeling in accordance with EPA's *Guideline on Air Quality Models*, or federally enforceable operating restrictions on these sources are required to demonstrate NAAQS compliance while burning 1.0% sulfur oil.[1] EPA anticipates that this refined modeling may reduce the number of sources predicted to cause violations.

An evaluation was also performed to ensure that this revision will not violate any applicable PSD increment. There are no areas in Connecticut where the PSD baseline has been established. The maximum modeled impact of Connecticut sources did not violate any applicable PSD increment in any neighboring states.

Proposed Action

EPA proposes to approve the revision to burn 1.0% sulfur oil for all urban sources.

EPA proposes to approve the revision to burn 1.0% sulfur oil for all rural sources, provided that for the rural major sources listed above, further modeling demonstrations or federally enforceable source operating restrictions that ensure NAAQS compliance are presented to EPA prior to final rulemaking.

C. Other Provisions of Regulation 19-508-19

1. *Use of Coal and Other Solid Fuels.* The CT DEP has proposed that the 1% sulfur revision apply to coal and other solid fuels as well as oil. The technical demonstrations in support of this revision were based on an emission rate of 1.1 pounds SO_2 per mBTu. This approximately equivalent to use of oil with a 1% sulfur content. However, since coal has a lower Btu content per pound than oil, this emission rate represents use of coal with sulfur content of approximately 0.75%, not 1%. The use of coal with a sulfur content higher than approximately 0.75% is not supported by the state's technical demonstration.

To control the air impacts of solid fuel burning, the state proposed to require its prior approval for units equal to or larger than 250 thousand Btu per hour heat input to burn 1% sulfur fuel. Thus, the 1% sulfur revision for coal and other solid fuels would rely on a future demonstration of compliance with the NAAQS. This approach is not acceptable to EPA. EPA cannot approve a sulfur-in-fuel relaxation without an accompanying technical demonstration which ensures compliance with NAAOS and with EPA's PSD requirements.

Two additional problems associated with the state's coal-burning regulation must be addressed. First, unlike oil, which is a homogeneous fuel, the sulfur content of coal varies among coal loads. The CT DEP has not specified an averaging time over which the coal sulfur content must be met. Since the sulfur content of coal is variable, this specification is essential. Second, EPA approved test methods must be specified to assure compliance with the SIP emission limits for the averaging times specified.

Proposed Action

EPA proposes to approve the use of solid fuels with an emission rate no greater than 1.1 pounds SO_2 per mBtu heat input (approximately equivalent to burning coal containing 0.75% sulfur), provided that the state submits a coal averaging time and corresponding compliance test methods consistent with EPA requirements and guidance prior to final rulemaking.

Until the State demonstrates that there will be no violations of the NAAQS or any applicable PSD increment the revision allowing use of solid fuels with a 1% sulfur content on a statewide basis is not approvable.

2. *Energy Trade Program.* The DEP has added specific regulatory language to Regulation 19-508-19(a)(3)(i) to more fully define its EPA-approved "Air Pollution Control/Energy Trade Option". Under this new program, sources may be approved to burn fuels with a sulfur content higher than 1% of the ratio of their energy use to their production has

[1] In the case of Federal Paperboard in Sprague, EPA has already received additional information in support of an increased sulfur limit approved at 46 FR 23412 (April 27, 1981).

declined and if the burning of the higher sulfur fuel will not violate the NAAQS or any applicable PSD increment. Individual source approvals by the state under this program must be submitted to EPA as SIP revisions.

The regulation, like the narrative, states that the CT DEP will not approve sources under the program if they violate the NAAQS. But the regulation must also state that no source will be approved under the program if it will violate any applicable PSD increment. In addition, the narrative provided that credits to burn higher sulfur fuel would be based on energy conservation compared to actual fuel purchases during an agreed upon base year. The regulation contains no such provision. This inconsistency must be resolved by the state prior to the final rulemaking.

Proposed Action

EPA proposes to approve this revision if it is amended prior to final rulemaking to ensure that no source will be approved under this program if it would violate an applicable PSD increment, and to correct the inconsistencies noted above.

3. *Other.* Subsection (a)(2)(ii) allows the Commissioner to approve emergency fuel relaxations. EPA proposes to take no action on this subsection at this time.

Subsection (a)(3)(ii) allows the Commissioner to approve the combustion of fuels which contain more than one percent (1%) sulfur, provided that the total SO_2 emissions from any stack located on a given premise do not exceed 1.1 pounds per million Btu of heat input. The state has submitted a technical demonstration of compliance with the NAAQS based on this rate, and EPA proposes to approve this subsection.

Subsection (a)(3)(iii) contains merely discretionary authority for the Commission to limit emission of SO_2 from any source if they will violate the NAAQS. Unless the Commissioner is required to disapprove a source which violates the NAAQS, or limit the source's emissions to prevent the violation this subsection is not approvable. EPA proposes to disapprove this subsection.

Subsection (a)(4) allows the Commissioner to permit fuel merchants to sell with greater than 1% sulfur content to approved users. Since this subsection does not affect the burning of such fuel, which is regulated by other portions of this rule, EPA proposes to approve this subsection.

Subsection (a)(9) regulates 1.5% sulfur coal at educational and historical exhibits. Because it allows for exemptions without a determination of compliance with the NAAQS or PSD increments this subsection is not approvable.

EPA proposes to approve the narrative supporting these regulatory SIP revisions if the following typographical errors are corrected: The primary annual average SO_2 is 80, not 75 $\mu g/m^3$ as stated on page 11. The revised sulfur-in-fuel limitation is 1.0%, not 1.09% as shown on page 53.

Proposed Action

EPA proposes to approve revisions to subsections (a)(3)(i) and (a)(4) of regulation 19-508-19.

EPA cannot approve subsections (a)(3)(iii) and (a)(9) of regulation 19-508-19 at this time due to the deficiencies not previously approved.

EPA proposes to take no action on subsection (a)(2)(ii) of regulation 19-508-19.

II. Revision to Regulation 19-508-24(e): Secondary SO_2 Standards

The CT DEP is proposing to eliminate the state's annual and 24-hour secondary SO_2 standards, but to retain EPA's 3-hour secondary standard. Since EPA has repealed its own annual and 24-hour secondary standards (38 FR 25681, September 14, 1973), it proposes to approve this revision.

Proposed Action

EPA proposes to approve the revision to regulation 19-508-24(e).

III. Revisions to Regulation 19-508-18: Total Suspended Particulates (TSP)

Connecticut has submitted proposed revisions to its regulations governing TSP and an analysis of its existing TSP regulations, in connection with its sulfur-in-fuel revision and in order to meet the TSP conditions set out in EPA's conditional approval of Connecticut's attainment plan (45 FR 84781, December 23, 1980). EPA is currently reviewing this submission and will announce a proposed decision concerning it in a separate rulemaking.

Proposed Action

EPA proposes to take no action on these revisions at this time.

IV. Revision to Regulation 19-508-20(dd)(1): Seasonal Use of Afterburners

EPA's volatile organic compound (VOC) control guidance allows seasonal use of natural gas afterburners, permitting a reduction of the demand for natural gas during the winter in cooler climates when VOCs do not present an ozone problem. The DEP is proposing to permit discontinuance of these devices during two months (November and March) in addition to the three-month period which has already been approved by EPA. This is consistent with EPA guidance.

Proposed Action

EPA proposes to approve the revision to regulation 19-508-20(dd).

V. Procedures For This Rulemaking

Under the "parallel process" procedures outlined in the SUMMARY of this notice, EPA's review of these proposed revisions is being conducted concurrently with their public review at the state level. EPA's review indicates that, when amended to include the conditions specified in this notice and officially adopted by the state, they will be approvable. EPA is proposing approval of various revisions contingent upon the incorporation of these conditions prior to final rulemaking, and thus before adoption and submittal of the final revisions to EPA. If the regulations as adopted by the state are substantially changed beyond inclusion of the conditions specified, EPA will evaluate these changes and publish a revised notice of proposed rulemaking for these regulations, if necessary. If no substantial changes are made, EPA will approve these revisions.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to requirement of a Regulatory Impact Analysis. These regulations are not Major because they will impose no new requirements, but will only approve state actions. Any disapprovals will merely preserve the status quo.

These regulations were submitted to the Office of Management and Budget for review by Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of section 110(a)(2) (A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. These revisions are being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: July 23, 1981.

Leslie Carothers,

Acting Regional Administrator.

Pursuant to the provisions of 5 U.S.C. 605(b), I have certified that 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. 46 FR 8709 (January 27, 1981). The approvals proposed today, if promulgated, will constitute SIP approvals within the meaning of the January 27 certification. I

hereby certify that this proposed rule, if promulgated, will not have a significant adverse impact on a substantial number of small entities. Any disapprovals will merely preserve the status quo.

Dated: September 2, 1981.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 81-26558 Filed 9-10-81; 8:45 am]

BILLING CODE 6560-38-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL-1924-5]

Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The Commonwealth of Pennsylvania had submitted a proposed revision of its State Implementation Plan (SIP). The changes involve a restructuring of sulfur dioxide (SO_2) emission limitations and the addition of averaging provisions, sampling and testing specifications, continuous in-stack monitoring requirements for (SO_2) where applicable, and other miscellaneous revisions. The changes affect Chapter 121, 122, 123, 124, and 139 of the Pennsylvania Air Resources Regulations.

This proposed revision applies to eight of the twelve Pennsylvania air basins and the non-air basin areas. The (SO_2) regulation changes as applied to the Erie Air Basin were proposed in the May 9, 1979, Federal Register, 44 FR 27188, and approved in the August 8, 1979 Federal Register, 44 FR 46465. The (SO_2) regulations for Allegheny County, Philadelphia County, the Beaver Valley Air Basin, and the Monogahela Valley Air Basin are not affected by this revision. The miscellaneous changes apply statewide.

DATE: Comments must be submitted on or before October 13, 1981.

ADDRESSES: Copies of the proposed SIP revision and the accompaying support are available of inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Media and Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA. 19106, Attn: Ed. Shoener (3AH11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120

Public Information Reference Unit, Room 2922, EPA Library, Environmental Protection Agency 401 M Street SW. (Waterside Mall), Washington, DC 20460.

All comments on the proposed revision submitted on or before October 13, 1981 will be considered and should be directed to Mr. Glenn Hanson, Chief, Pennsylvania Section (3AH11), Air & Hazardous Materials Division, Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, PA. 19106; Attn: (AH3000cPA).

FOR FURTHER INFORMATION CONTACT: Mr. Ed. Shoener, Environmental Protection Agency, Region III, Air Media and Energy Branch, Curtis Building, 10th Floor, Curtis Building, 10th Floor, 6th & Walnut, Street, Philadelphia, PA 19106, (215) 579-8179.

SUPPLEMENTARY INFORMATION:

Introduction

The proposed changes to the Pennsylvania regulations were submitted by Governor Richard Thornburgh on April 24, 1979. The Governor certified in his submittal letter that the public hearing and notice requirements of 40 CFR Part 51 have been fulfilled for the amended regulations.

The proposed SIP revision consists of the changes for sulfur dioxide and the miscellaneous changes. The changes for sulfur dioxide were submitted for the entire Commonwealth except Allegheny County, Philadelphia County, the Beaver Valley Air Basin, and the Monongahela Valley Air Basin.

The changes for sulfur dioxide as applied to the Erie Air Basin were proposed in the May 9, 1979 Federal Register, 44 FR 27188, and were approved in the August 8, 1979 Federal Register, 44 FR 46465. The miscellaneous changes are being proposed statewide.

Description of Change

Change to the SO_2 Regulations

In Pennsylvania there are currently 12 air basins. The remaining areas of the State are referred to as non-air basin areas. The level of control required by the regulations depends on current air quality and estimated future air quality within these air basins and surrounding non-air basin areas. This revision contains regulations pertaining to the following four area classifications:

A. Non-air basin areas

B. Harrisburg, York, Lancaster, and Scranton/Wilkes-Barre Air Basins

C. Allentown-Bethlehem-Easton (A-B-E), Reading, and Johnstown Air Basins

D. The Southeast Pennsylvania Air Basin (less Philadelphia County).

Similar provisions have already been promulgated for the Erie Air Basin, 44 FR 46465, August 8, 1979.

Standards for Contaminants

The SO_2 regulations for the areas affected by this notice contain the following sections:

1. A general provision limiting the emissions of sulfur oxides (expressed as SO_2) from any combustion unit;

2. Commercial fuel oil sulfur content limitations restricting sale, delivery, exchange, causing, suffering, or permitting use of oil with a sulfur content greater than the set limit;

3. An equivalency provision for fuel oil allowing sources using sulfur emissions control equipment or processes to burn oil with a sulfur content higher than that allowed in 2. above provided that the resultant emissions do not exceed those that would result from the use of the percent sulfur allowed in 2. above.

4. An emission averaging provision for solid fossil fuel-fired combustion units. This averaging provision is required for all sources with a heat input equal to or in excess of 250 million BTU/hour. Sources with a heat input of less than 250 million BTU/hour may utilize the averaging provision if a petition to do so is accepted by DER. This provision sets emission limitations for sulfur oxides (expressed as SO_2) in pounds of SO_2 per million BTU (lbs SO_2/MMBTU) heat input for the following time periods:

a. Thirty (30) day running average not to be exceeded at any time;

b. Daily average not to be exceeded more than two (2) days in any running thirty (30) day period; and

c. Daily average maximum not to be exceeded at any time. Any combustion units not qualifying for or not complying with the regulations for installation and operation of continuous monitoring equipment that is required for the averaging provision shall be subject to the general provision limitations. The following chart presents these changes:

Proposed SO_2 Emission Limitations and Sulfur in Fuel Regulations for Areas in the Commonwealth of Pennsylvania

Areas	General provisions (pounds SO_2/MMBTU)	Fuel oils		Continuous emission monitoring provisions (pounds SO_2/MMBTU)		
		No. 2 and lighter (percent S in fuel)	Nos. 4, 5, 6	30 day average	Daily average	Daily maximum average
Group (a)						
Non-air basin areas	4	0.5	2.8	3.7	4.0	4.8
Group (b)						
The Harrisburg, York, Lancaster, & Scranton/Wilkes-Barre Air Basins	4	0.3	2.8	3.7	4.0	4.8
Group (c)						
The Allentown-Bethlehem, Easton, Reading, and Johnstown Air Basins	3	0.3	2.0 [1] 1.5	2.8	3.0	3.6
Group (d) Southeast Pennsylvania Air Basin:						
Inner 250 MMBTU/hr	1.0	0.2	0.5	0.75	1.00	1.20
Zone 250 MMBTU/hr	0.6	0.2	0.5	0.45	0.60	0.72
Outer 250 MMBTU/hr	1.2	0.3	1.0	0.90	1.20	1.44
Zone 250 MMBTU/hr	1.2	0.3	1.0	0.90	1.20	1.44

[1] Effective August 1, 1982.

The limitations for the non-air basin areas were previously 4 lbs. SO_2/MMBTU and have not changed, but the emission averaging limitation has been added to the general provision emission limitation (section 123.22 of the Pennsylvania Air Resources Regulations).

The previous limitations for groups B and C were:

1. 3 lbs. SO_2/MMBTU for sources with a heat input greater than 2.5 million but less than 50 million BTU's/hour.

2. The rate determined by an equation for sources of from 50 million to less than 2,000 million BTU's heat input/hour (sliding scale from 3.0 lbs SO_2/MMBTU's to 1.8 lbs/MMBTU).

3. 1.8 lbs/MMBTU for sources of 2,000 million or more BTU's of heat input per hour.

In the Southeast Pennsylvania air basin the general provision, commercial fuel oil, and non-commercial fuel regulations remain unchanged. The equivalency provision has been reworded, and an averaging provision is included for the inner and outer zones of control. The inner and outer control zones and emission limitations were established in a final rulemaking notice of June 4, 1979, 44 FR 31980. This revision does not change the limitations established in that notice, but involves the addition of an averaging provision based on those existing limitations.

The emission averaging provisions for all areas require continuous emission monitoring, the installation and operation of which must meet the requirements of section 123.25 and Chapter 139 of the Pennsylvania Air Resources Regulations.

Sampling and Testing

The Sampling and Testing Regulations (Chapter 139 of the Pennsylvania Air Resources Regulations) were revised to update reference materials and to include the following provisions:

1. Revised hydrogen sulfide (H_2S) and nitrogen dioxide sampling methods (§ 139.13).

2. Sulfur in Fuel Oil Regulations for Analysis of Commercial Fuel Oil (§ 139.16).

3. Requirements for Continuous In-Stack Monitoring for Stationary Sources (§ 139.101).

4. Opacity Monitoring Requirements (§ 139.103).

5. Sulfur Dioxide Monitoring Requirements for Combustion Sources (§ 139.104).

6. General Sulfur Dioxide Monitoring Requirements (§ 139.105).

Miscellaneous Changes

The miscellaneous changes include a change in the language governing the determination of compliance with the coke oven gas regulation (§ 123.23), a revision of the list of existing coke oven batteries which changes the definition of a coke oven battery; minor language changes; a change in the definition of non-commercial fuels; addition of the definitions of commercial fuel oil, solid fossil fuel, solid fossil fuel-fired combustion units, and the term "daily"; and the deletion of the definition for SSU viscosity.

Comments

EPA believes the proposed regulations for the non-air basin areas (Group A) and the Southeast Pennsylvania Air Basin (Group D) are more stringent in the long-term (monthly average) than the existing regulations. EPA also expects no real increase in emissions from the affected sources when considering short-term averages. The proposed SO_2 averaging provisions essentially reformulate the previous regulations and set no precedents in this regard as explained below.

In regard to the averaging provisions, EPA amended its national SO_2 policy to allow sources to take into account two exceedances in any 30-day period to account for the sulfur content variability of their fuel (see 43 FR 6646, February 15, 1978 as amended 47 FR 49296, August 22, 1979) and EPA has permitted the use of SO_2 averaging provisions similar to those being proposed today for Pennsylvania in previous rulemakings on State regulations (see 44 FR 69928, December 5, 1979 and 45 FR 17146, March 18, 1980).

In the Group B and Group C air basins, the emission limits for coal and oil burning sources are slightly less restrictive than the previous limits. DER has submitted an acceptable air quality analysis which meets EPA modeling guidelines (see Guidelines on Air Quality Models, EPA–450/2–78–027, OAQPS No. 1.2–080, April 1978). The analysis showed that there may be a slight increase in emissions in these air basins (except for the Johnstown Air Basin, were a flood in 1978 caused the shutdown of a number of sources and consent agreements require extensive controls on other sources). However, the analysis indicates no violations of the PSD increment and the NAAQS in these areas. The increase in emissions will be due primarily to emission increases from area sources affected by the percent sulfur-in-fuel oil limits. The only large source over 250 MMBTU affected by the regulation change is a coal burning power plant in the Reading air basin; but, this plant is not near the area of highest SO_2 concentrations in the Reading air basin and will not jeopardize attainment of the SO_2 NAAQS in the Reading air basin. The other large sources over 250 MMBTU in these air basins burn anthracite coal and are emitting SO_2 at levels below the previous and proposed emission limits, even though the air quality analysis was conducted using maximum emissions rates allowed under the proposed regulations.

Approval of the Sampling and Testing Regulations is proposed because the regulations are necessary to monitor compliance and enforce DER's emission limitations and because they satisfy the requirements of 40 CFR 51.19, Source Surveillance.

EPA is also proposing to approve the miscellaneous changes because the changes only clarify and streamline the regulations and will have no adverse impact on air quality and do not conflict with EPA policies or regulations.

The public is invited to submit, to the address stated above, comments on whether the proposed changes to the regulations should be approved as a revision of the Pennsylvania State Implementation Plan.

The Administrator's final decision to approve or disapprove the proposed revision will be based on the comments received and on a final determination of whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Note.—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, if promulgated, 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. Any comments from OMB and EPA and any EPA response to these comments are available for public inspection at the address listed for Ed Shoener at the beginning of this notice.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that 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. See 46 Fed. reg. 8709 (January 27, 1981). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27, certification. This action only approves State actions. It imposes no new requirements.

(42 U.S.C. 7401–642)

Dated: July 15, 1981

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81-26559 Filed 9-10-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[AD-FRL 1926-6]

Interstate Pollution Abatement; Extension of Comment Period and Announcement of Supplemented Petition for New York and Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period and announcement of supplemental information.

SUMMARY: This notice extends the time period for public comment on the petitions previously submitted by New York and Pennsylvania under Section 126 of the Clean Air Act. This additional time for public comment is required because EPA is allowing New York and Pennsylvania time to submit additional information in support of their petitions if they so desire.

In addition, this notice announces the receipt by EPA of a supplemented Pennsylvania Section 126 petition. This supplemented petition requests that EPA find that emissions from sources in Illinois, Indiana, Kentucky, Ohio, and West Virginia contribute significantly to ambient particulate matter in Pennsylvania.

DATES: EPA has been informed that Pennsylvania will submit additional information by August 21, 1981, and that New York will submit additional information by October 4, 1981. The public comment period will extend until January 4, 1982 to allow a reasonable amount of time for public review and comment.

ADDRESSES: EPA has established a docket containing materials relevant to the petitions filed by New York and Pennsylvania under Section 126. This information is available at: Central Docket Section (A–103), Docket No. A–81–09, U.S. Environmental Protection Agency, Room 2902, 401 M Street, S.W., Washington, D.C. 20460. Telephone No. 202–755–0245. Comments should be submitted to this address.

FOR FURTHER INFORMATION CONTACT: William F. Hamilton, Control Programs Development Division (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. Telephone No. 919–541–5551 or FTS 629–5551.

SUPPLEMENTARY INFORMATION: Section 126(b) of the Clean Air Act authorizes any State or political subdivision to "petition the Administrator [of the EPA] for a finding that any major source emits or would emit any air pollutant in violation of the prohibition of Section 110(a)(2)(E)(i)" of the Clean Air Act. That section prohibits "any stationary source within a State from emitting any air pollutant in amounts which will (I) prevent attainment or maintenance by any other State of any national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under Part C [of the Act] to prevent significant deterioration of air quality or to protect visibility."

On December 22, 1980 and January 16, 1981, the State of New York, and on December 19, 1980, the State of Pennsylvania, petitioned EPA, pursuant to Section 126 (b) and (c) of the Clean Air Act as amended in 1977 (42 U.S.C. 7401 et seq.), to make a finding that the sulfur dioxide emissions from certain sources were causing or contributing to high concentrations of total suspended particulates (TSP) and sulfur dioxide (SO_2) and were otherwise in violation of 110(a)(2)(E)(i).

In the **Federal Register** of May 1, 1981 (46 FR 24602), EPA announced that a public hearing would be held on the petitions submitted to EPA by New York and Pennsylvania. This hearing was held on June 18–19, 1981 in Washington, D.C. In his opening remarks at the start of the public hearing the chairman of the hearing panel stated that the provisions of Section 126(b) should not be construed to mean that the petitioning States are without responsibility to articulate and document the basis for their claims. He also stated that the petitioning States should recognize the substantial commitment of public resources necessary to evaluate and respond to Section 126 petitions, and should make every effort to concisely articulate and document their claims. In light of the above, the hearing panel chairman stated that EPA believed that the following information was most relevant to the Section 126 process:

1. A demonstration establishing the existence and geographic boundaries of the nonattainment or prevention of significant deterioration (PSD) area which is the subject of the petition.

2. A demonstration that achievement of ambient air quality standards, or of measures necessary to prevent significant deterioration or to protect visibility, is prevented by the named out-of-State sources.

3. Indications that sources within the petitioning States which impact on the PSD and/or nonattainment areas have been adequately controlled.

To the extent practicable, information identifying the modeling, emission inventories, and relevant meteorological data should also be provided to assist the Administrator in making her determination.

The above criteria had not been publicly stated by EPA prior to the public hearing due to the fact that EPA's policy with regard to interstate pollution has been continually evolving over the past months. Therefore, it is EPA's intention to allow New York and Pennsylvania additional time to examine their petitions and their testimony at the public hearing to see if they believe that their submissions to date satisfy these criteria. For this reason, it is necessary for EPA to deviate from the procedures and schedules stated in the May 1 **Federal Register** in order to allow New York and Pennsylvania time to submit any additional information that they believe

is necessary to satisfy the criteria listed above. EPA has been informed that Pennsylvania will submit additional information by August 21, 1981, and that New York will submit additional information by October 4, 1981. The public comment period will extend until January 4, 1982 to allow a reasonable amount of time for public review and comment. Comments will be accepted during this period on all aspects of the Pennsylvania and New York Section 126 petitions, not just the additional information to be submitted by the two States. After the close of the comment period, all relevant testimony and information will be reviewed and used by the hearing panel to recommend to the Administrator whether to accept or deny some or all of the New York and Pennsylvania petitions. The decision of the Administrator to accept or deny the petitions will then be proposed in the **Federal Register** and adequate opportunity for public comment will be provided.

If the final decision of the Administrator is to accept one or more of the petitions, then Section 126(c) prohibits the operation of the offending source(s) for more than three months after the finding has been made unless the Administrator permits continued operation of the source conditioned on its compliance with emission limitations and compliance schedules established by the Administrator. Compliance with the limitations must be as expeditious as practicable but no later than three years after the date of such finding. Any emission limits and compliance schedules established by the Administrator will be proposed in the **Federal Register** and adequate time will be allowed for public comment prior to promulgation of final limits and schedules.

A second purpose of this notice is to inform the public of the fact that Pennsylvania supplemented their original Section 126 petition of December 19, 1980. On June 4, 1981, Pennsylvania requested EPA to make additional findings that emissions from spurces in the States of Illinois, Indiana, Kentucky, Ohio, and West Virginia contribute significantly to ambient particulate matter in Pennsylvania. Pennsylvania requested that EPA's inquiry relating to ambient particulate matter be broadened to include all major SO_2 and particulate matter emitters in the above-mentioned States.

At this time EPA does not intend to schedule additional public hearings on the supplemented Pennsylvania petition. EPA will examine any material submitted by Pennsylvania pertaining to the criteria listed above and will decide at that time whether additional hearings are necessary.

Dated: August 26, 1981.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-26090 Filed 9-10-81; 8:45 am]

BILLING CODE 6560-26-M

Notices

Federal Register
Vol. 46, No. 176
Friday, September 11, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Freedom of Information Act; Confidential Business Information

AGENCY: Administrative Conference of the United States; Committee on Regulation of Business.

ACTION: Committee meeting.

Agenda for Meeting

The Committee will meet with its consultants to discuss the development of recommendations related to the administrative of exemption (b)(4) of the Freedom of Information Act.

Date, Time, and Place

October 2, 1981; 1:00 p.m.; Library, Suite 500, 2120 L Street N.W., Washington, D.C. 20037.

Public Participation

Attendance at the Committee's meeting is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance of the meeting. The Committee Chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during, or after the meeting. Minutes of the meeting will be available on requet to the contact person.

FOR FURTHER INFORMATION CONTACT: William C. Bush, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037. Telephone (202) 254–7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference Committee on Regulation of Business (formerly called the Committee on Ratemaking and Economic Regulation) is working toward developing recommendations concerning agency procedures and practices in dealing with Freedom of Information Act requests for information that would fall within exemption 4 of the Act, the "business records exemption", (5 U.S.C. 552(b)(4)). This information would ordinarily be in the form of documents in an agency's possession that had been submitted to the agency by a private person or business firm and that deal with the business of the individual or firm, and would include documents containing "confidential" information or trade secrets.

The Committee is working on this project with two consultants, Russell B. Stevenson and James T. O'Reilly. Mr. Stevenson has presented his final report to the Committee, and Mr. O'Reilly's first draft report is due in mid-October. These reports, and the development of recommendations based on them, will be the subjects of discussion.

Richard K. Berg,
General Counsel.
September 4, 1981.

[FR Doc. 81–26484 Filed 9–10–81; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1981-Crop Barley Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1981-crop barley loan and purchase rates.

SUMMARY: This notice of determination sets forth the county loan and purchase rates applicable to the 1981 crop of barley. The county loan and purchase rates have been determined in order to make price support available with respect to eligible producers of 1981-crop barley in accordance with the Agricultural Act of 1949, as amended, (hereinafter referred to as the "Act").

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: Eloise V. Mauck, (202) 447–7923.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases; Number: 10.051, as found in the catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Price support for barley is made available each year by CCC through county Agricultural Stabilization and Conservation Service (ASCS) offices. Price support for each crop of barley is mandatory at a level which is determined in accordance with the formula prescribed by Section 105A of the Act. Section 105A of the Act provides that loans and purchases shall be made available to producers of 1981-crop barley at such level as the Secretary determines is fair and reasonable in relation to the level at which loans and purchases are made available for corn, taking into consideration the feeding value of barley to corn and other factors specified in Section 401(b) of the Act.

Section 403 of the Act provides, in part, as follows:

> Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act * * *.

The Secretary has determined that the 1981-crop barley loan and purchase rate will be $1.95 per bushel and has announced such rate in the **Federal Register** (46 FR 31451). The county loan and purchase rates determined herein reflect the level of support determined for the 1981 crop of barley.

This notice of determination also sets forth the discounts applicable to the 1981 crop of barley.

Accordingly, the individual county loan and purchase rates and discounts for the 1981 crop of barley are as follows:

Determinations

(a) Basic loan and purchase rates (counties).

County	Rate per bushel
ALABAMA	
All Counties	$1.93
ALASKA	
All Counties	2.25
ARIZONA	
All Counties	2.13
ARKANSAS	
All Counties	1.93
CALIFORNIA	
Alameda	2.34
Apine	2.17
Amador	2.30
Butte	2.25
Calaveras	2.30
Clusa	2.29
Contra Costa	2.31
El Dorado	2.29
Fresno	2.28
Glenn	2.26
Humboldt	2.14
Imperial	2.28
Inyo	2.16
Kern	2.29
Kings	2.27
Lake	2.24
Lassen	2.14
Los Angeles	2.34
Madera	2.30
Marin	2.31
Mariposa	2.28
Mendocino	2.18
Merced	2.30
Modac	2.12
Monterey	2.26
Napa	2.29
Orange	2.34
Placer	2.27
Plumas	2.17
Riverside	2.29
Sacramento	2.34
San Benito	2.26
San Bernardino	2.30
San Diego	2.34
San Francisco	2.34
San Joaquin	2.34
San Luis Obispo	2.26
San Mateo	2.31
Santa Barbara	2.25
Santa Clara	2.30
Santa Cruz	2.27
Shasta	2.14
Sierra	2.16
Siskiyou	2.12
Solano	2.31
Sonoma	2.29
Stanislaus	2.32
Sutter	2.28
Tehama	2.25
Tulare	2.26
Tuolumne	2.28
Ventura	2.29
Yolo	2.31
Yuba	2.28
Wght. St. Avg	2.27
COLORADO	
All Counties	2.01
CONNECTICUT	
All Counties	1.93
DELAWARE	
All Counties	1.93
FLORIDA	
All Counties	1.94
GEORGIA	
All Counties	1.94
IDAHO	
Ada	2.00
Adams	2.00
Bannock	2.00
Bear Lake	1.97
Benewah	2.06
Bingham	1.99
Blaine	2.00
Boise	2.00
Bonner	2.02
Bonneville	1.97
Boundary	2.01
Butte	1.99
Camas	2.00
Canyon	2.00
Caribou	1.97
Cassia	1.99
Clark	1.96
Clearwater	2.05
Custer	2.00
Elmore	2.00
Franklin	2.01
Fremont	1.97
Gem	2.00
Gooding	2.00
Idaho	2.01
Jefferson	1.97
Jerome	2.00
Kootenai	2.06
Latah	2.06
Lemhi	1.96
Lewis	2.05
Lincoln	2.00
Madison	1.97
Minidoka	2.01
Nez Perce	2.06
Oneida	2.00
Owyhee	2.00
Payette	2.00
Power	2.00
Shoshone	1.94
Teton	1.97
Twin Falls	2.01
Valley	2.00
Washington	2.00
Wght. St. Avg	1.99
ILLINOIS	
Alexander	1.99
Cook	1.94
Madison	1.98
St. Clair	1.98
all Other Counties	1.89
Wght. St. Avg	1.89
INDIANA	
All Counties	1.89
IOWA	
Pottawattamie	1.95
All Other Counties	1.91
Wght. St. Avg	1.91
KANSAS	
Leavenworth	1.96
Wyandotte	1.96
All Other Counties	1.92
Wght. St Avg	1.92
KENTUCKY	
All Counties	1.90
LOUISIANA	
East Baton Rouge	2.11
Jefferson	2.11
Orleans	2.11
St. Charles	2.11
West Baton Rouge	2.11
All Other Counties	1.94
Wght. St Avg	1.94
MAINE	
All Counties	1.93
MARYLAND	
Baltimore	2.11
All Other Counties	1.93
Wght. St Avg	1.90
MASSACHUSETTS	
All Counties	1.93
MICHIGAN	
All Counties	1.86
MINNESOTA	
Aitkin	2.04
Anoka	2.07
Becker	1.89
Beltrami	1.90
Benton	2.03
Big Stone	1.94
Blue Earth	2.07
Brown	2.05
Carlton	2.08
Carver	2.08
Cass	1.96
Chippewa	2.01
Chisago	2.07
Clay	1.87
Clearwater	1.87
Cottonwood	2.01
Crow Wing	2.00
Dakota	2.08
Dodge	2.07
Douglas	1.95
Faribault	2.06
Fillmore	2.04
Freeborn	2.07
Goodhue	2.07
Grant	1.93
Hennepin	2.08
Houston	2.03
Hubbard	1.98
Isanti	2.06
Itasca	2.00
Jackson	2.00
Kanabec	2.05
Kandiyohi	2.04
Kittson	1.82
Koochiching	1.97
Lac qui Parle	1.97
Lake of the Woods	1.92
Le Sueur	2.08
Lincoln	1.95
Lyon	1.99
McLeod	2.07
Mahnomen	1.87
Marshall	1.84
Martin	2.05
Meeker	2.05
Mille Lacs	2.05
Morrison	2.01
Mower	2.06
Murray	1.98
Nicollet	2.07
Nobles	1.96
Norman	1.86
Olmsted	2.07
Otter Tail	1.92
Pennington	1.85
Pine	2.08
Pipestone	1.94
Polk	1.85
Pope	1.98
Ramsey	2.08
Red Lake	1.85
Redwood	2.02
Renville	2.05
Rice	2.08
Rock	1.92
Roseau	1.84
St. Louis	2.08
Scott	2.08
Sherburne	2.07
Sibley	2.07
Stearns	2.03
Steele	2.08
Stevens	1.96
Swift	1.99
Todd	1.98
Traverse	1.92
Wabasha	2.07
Wadena	1.97
Waseca	2.08
Washington	2.08

County	Rate per bushel
Watonwan	2.06
Wilkin	1.90
Winona	2.05
Wright	2.08
Yellow Medicine	1.97
Wght. St. Avg	1.87
MISSISSIPPI	
All Counties	1.93
MISSOURI	
Buchanan	1.95
Clay	1.95
Jackson	1.95
St. Louis	1.97
All Other Counties	1.93
Wght. St. Avg	1.93
MONTANA	
Beaverhead	1.89
Big Horn	1.83
Blaine	1.79
Broadwater	1.91
Carbon	1.84
Carter	1.71
Cascade	1.87
Chouteau	1.83
Custer	1.73
Daniels	1.72
Dawson	1.73
Deer Lodge	1.95
Fallon	1.71
Fergus	1.83
Flathead	2.00
Gallatin	1.95
Garfield	1.79
Glacier	1.86
Golden Valley	1.84
Granite	1.93
Hill	1.82
Jefferson	1.95
Judith Basin	1.84
Lake	1.93
Lewis and Clark	1.85
Liberty	1.84
Lincoln	2.00
McCone	1.76
Madison	1.95
Meagher	1.88
Mineral	1.97
Missoula	1.97
Musselshell	1.83
Park	1.92
Petroleum	1.81
Phillips	1.76
Pondera	1.85
Powder River	1.74
Powell	1.95
Prairie	1.73
Ravalli	1.92
Richland	1.72
Roosevelt	1.70
Rosebud	1.77
Sanders	1.97
Sheridan	1.70
Silver Bow	1.95
Stillwater	1.84
Sweet Grass	1.87
Teton	1.85
Toole	1.85
Treasure	1.78
Valley	1.76
Wheatland	1.85
Wibaux	1.71
Yellowstone	1.83
Wght. St. Avg	1.84
NEBRASKA	
Dougtas	1.96
All Other Counties	1.88
Wght. St. Avg	1.88
NEVADA	
All Counties	2.13
NEW HAMPSHIRE	
All Counties	1.93
NEW JERSEY	
All Counties	1.93
NEW MEXICO	
All Counties	2.03
NEW YORK	
Albany	2.11
New York City	2.11
All Other Counties	1.93
Wght. St. Avg	1.93
NORTH CAROLINA	
All Counties	1.94
NORTH DAKOTA	
Adams	1.68
Barnes	1.81
Benson	1.73
Billings	1.66
Bottineau	1.68
Bowman	1.66
Burke	1.66
Burleigh	1.72
Cass	1.84
Cavalier	1.75
Dickey	1.79
Divide	1.66
Dunn	1.66
Eddy	1.76
Emmons	1.71
Foster	1.77
Golden Valley	1.66
Grand Forks	1.81
Grant	1.67
Griggs	1.78
Hettinger	1.66
Kidder	1.75
La Moure	1.76
Logan	1.75
McHenry	1.71
McIntosh	1.76
McKenzie	1.68
McLean	1.70
Mercer	1.69
Morton	1.69
Mountrail	1.66
Nelson	1.78
Oliver	1.70
Pembina	1.79
Pierce	1.72
Ramsey	1.75
Ransom	1.81
Renville	1.67
Rolette	1.71
Sargent	1.83
Sheridan	1.72
Sioux	1.69
Slope	1.66
Stark	1.66
Steele	1.80
Stutsman	1.79
Towner	1.73
Traill	1.81
Walsh	1.79
Ward	1.68
Wells	1.75
Williams	1.66
Wght. St. Avg	1.77
OHIO	
All Counties	1.87
OKLAHOMA	
All Counties	1.94
OREGON	
Baker	2.05
Benton	2.10
Clackamas	2.14
Clatsop	2.20
Columbia	2.20
Coos	2.01
Crook	2.09
Curry	1.99
Deschutes	2.09
Douglas	2.03
Gilliam	2.14
Grant	2.09
Harney	1.96
Hood River	2.16
Jackson	2.02
Jefferson	2.12
Josephine	2.02
Klamath	2.02
Lake	2.01
Lane	2.09
Lincoln	2.09
Linn	2.11
Malheur	1.99
Marion	2.12
Morrow	2.13
Multnomah	2.20
Polk	2.12
Sherman	2.15
Tillamook	2.15
Umatilla	2.10
Union	2.08
Wallowa	2.05
Wasco	2.16
Washington	2.16
Wheeler	2.11
Yamhill	2.14
Wght. St. Avg	2.06
PENNSYLVANIA	
Phiadelphia	2.11
All Other Counties	1.93
Wght. St. Avg	1.93
RHODE ISLAND	
All Counties	1.93
SOUTH CAROLINA	
Charleston	209
All Other Counties	1.94
Wght. St. Avg	1.94
SOUTH DAKOTA	
Aurora	1.79
Beadle	1.83
Bennett	1.73
Bon Homme	1.82
Brookings	1.89
Brown	1.82
Brule	1.77
Buffalo	1.79
Butte	1.66
Campbell	1.76
Charles Mix	1.80
Clark	1.84
Clay	1.84
Codington	1.87
Corson	1.71
Custer	1.71
Davison	1.79
Day	1.85
Deuel	1.91
Dewey	1.73
Douglas	1.80
Edmunds	1.79
Fall River	1.71
Faulk	1.80
Grant	1.91
Gregory	1.79
Haakon	1.73
Hamlin	1.87
Hand	1.81
Hanson	1.80
Harding	1.66
Hughes	1.77
Hutchinson	1.81
Hyde	1.79
Jackson	1.73
Jerauld	1.79
Jones	1.76
Kingsbury	1.86
Lake	1.85
Lawrence	1.66
Lincoln	1.84
Lyman	1.77
McCook	1.82
McPherson	1.79
Marshall	1.84
Meade	1.69
Mellette	1.75
Miner	1.81
Minnenhaha	1.85
Moody	1.87
Pennington	1.71
Perkins	1.68
Roberts	1.89
Potter	1.78
Sanborn	1.79
Shannon	1.71
Spink	1.82
Stanley	1.76
Sully	1.78
Todd	1.75
Tripp	1.77
Turner	1.84
Union	1.85
Walworth	1.76
Yankton	1.84
Ziebach	1.71
Wght. St. Avg	1.82

County	Rate per bushel
TENNESSEE	
Shelby	1.99
All Other Counties	1.93
Wght. St. Avg.	1.93
TEXAS	
Chambers	2.13
Galveston	2.13
Harris	2.13
Jefferson	2.13
Nueces	2.13
San Patricio	2.13
All Other Counties	1.97
Wght. St. Avg.	1.97
UTAH	
All Counties	2.03
VERMONT	
All Counties	1.93
VIRGINIA	
Chesapeake (Norfolk)	2.03
All Other Counties	1.93
Wght. St. Avg.	1.93
WASHINGTON	
Adams	2.09
Asotin	2.09
Benton	2.11
Chelan	2.13
Clallam	1.99
Clark	2.20
Columbia	2.10
Cowlitz	2.20
Douglas	2.06
Ferry	2.04
Franklin	2.10
Garfield	2.10
Grant	2.09
Grays Harbor	2.08
Island	2.12
Jefferson	2.04
King	2.20
Kitsap	2.12
Kittitas	2.11
Klickitat	2.12
Lewis	2.13
Lincoln	2.08
Mason	2.06
Okanogan	2.07
Pacific	2.08
Pend Oreille	2.02
Pierce	2.20
San Juan	2.07
Skagit	2.07
Skamania	2.14
Snohomish	2.12
Spokane	2.06
Stevens	2.03
Thurston	2.13
Wahkiakum	2.16
Walla Walla	2.10
Whatcom	2.05
Whitman	2.06
Yakima	2.10
Wght. St. Avg.	2.06
WEST VIRGINIA	
All Counties	1.93
WISCONSIN	
Douglas	2.00
All Other Counties	1.90
Wght. St. Avg.	1.90
WYOMING	
All Counties	1.97

(b) Schedule of discounts.

	Cents per bushel
(1) Grade:	
(i) U.S. No. 3	−4
(ii) U.S. No. 4	−8
(iii) U.S. No. 5	−20
(iv) U.S. Sample grade—on the factors of test weight and/or total damaged kernels plus additional discounts for test weight and total damaged kernels	−32
(A) U.S. Sample grade on account of test weight (pounds):	
(1) 35.9 to 35.0	−1
(2) 34.9 to 34.0	−2
(3) 33.9 to 33.0	−3
(4) 32.9 to 32.0	−4
(5) 31.9 to 31.0	−5
(6) 30.9 to 30.0	−6
(7) 29.9 to 29.0	−7
(8) 28.9 to 28.0	−8
(9) 27.9 to 27.0	−9
(10) 26.9 to 26.0	−10
(11) 25.9 to 25.0	−11
(B) U.S. sample grade on account of total damaged kernels (percent):	
(1) 10.1 to 11.0	−2
(2) 11.1 to 12.0	−4
(3) 12.1 to 13.0	−6
(4) 13.1 to 14.0	−8
(5) 14.1 to 15.0	−10
(6) Each percent over 15	−5
(2) Special discount—Garlicky:	−10
(3) Weed control discount (where required by § 1421.24):	−10

(4) Other factors. Barley grading U.S. sample grade is ineligible for warehouse-stored loan except on the factors of test weight and/or total damaged kernels. In the event quantities of barley grading U.S. sample grade are delivered in satisfaction of farm-stored loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City ASCS Commodity Office for settlement purposes. The schedule will also provide discounts for certain quality factors not specified above which affect the value of the barley, e.g., weevily, ergoty, stones, etc. Such discounts will be established prior to loan maturity and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors, discounts and adjustments at county ASCS offices prior to their loan maturity dates or as soon thereafter as practicable.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421))

Signed at Washington D.C., on September 3, 1981.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-26520 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-05-M

1981-Crop Corn Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1981-crop corn loan and purchase rates.

SUMMARY: This notice of determination sets forth the county loan and purchase rates applicable to the 1981 crop of corn. The county loan and purchase rates have been determined in order to make price support available with respect to eligible producers of 1981-crop corn in accordance with the Agricultural Act of 1949, as amended, (hereinafter referred to as the "Act").

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, (202) 447-7923.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases; Number: 10.051, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Price support for corn is made available each year by CCC through county Agricultural Stabilization and Conservation Service (ASCS) offices. Price support for each crop of corn is mandatory at a level which is determined in accordance with the formula prescribed by Section 105A of the Act. Section 105A of the Act provides that the Secretary shall make loans and purchases available to producers of the 1981 crop of corn at not less that $2.25 per bushel, and at such level as the Secretary determines will encourage the exportation of feed grains and not result in excessive stocks.

Section 403 of the Act provides, in part, as follows:

> Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act * * *.

The Secretary has determined that the 1981-crop corn loan and purchase rate will be $2.40 per bushel and has

announced such rate in the **Federal Register** (46 FR 31451). The county loan and purchase rates determined herein reflect the level of support determined for the 1981 crop of corn.

This notice of determination also sets forth the premiums and discounts applicable to the 1981 crop of corn.

Accordingly, the individual county loan and purchase rates and premiums and discounts for the 1981 crop of corn are as follows:

Determinations

(a) Basic loan and purchase rates (counties).

County	Rate per bushel
ALABAMA	
All Counties	$2.58
ARIZONA	
All Counties	2.61
ARKANSAS	
All Counties	2.53
CALIFORNIA	
All Counties	2.61
COLORADO	
Baca	2.44
Cheyenne	2.43
Kiowa	2.43
Kit Carson	2.43
Lincoln	2.46
Logan	2.45
Phillips	2.43
Prowers	2.43
Sedgwick	2.43
Washington	2.45
Yuma	2.42
All other Counties	2.47
Wght. State Avg	2.44
CONNECTICUT	
All Counties	2.67
DELAWARE	
All Counties	2.61
FLORIDA	
All Counties	2.59
GEORGIA	
All Counties	2.59
IDAHO	
All Counties	2.58
ILLINOIS	
Adams	2.45
Alexander	2.49
Bond	2.47
Boone	2.45
Brown	2.46
Bureau	2.45
Calhoun	2.47
Carroll	2.43
Cass	2.46
Champaign	2.44
Christian	2.46
Clark	2.44
Clay	2.45
Clinton	2.48
Coles	2.44
Cook	2.49
Crawford	2.44
Cumberland	2.44
DeKalb	2.45
DeWitt	2.44
Douglas	2.44
Du Page	2.48
Edgar	2.44
Edwards	2.46
Effingham	2.45
Fayette	2.46
Ford	2.45
Franklin	2.47
Fulton	2.46
Gallatin	2.47
Greene	2.47
Grundy	2.46
Hamilton	2.46
Hancock	2.45
Hardin	2.48
Henderson	2.45
Henry	2.45
Iroquois	2.45
Jackson	2.48
Jasper	2.44
Jefferson	2.48
Jersey	2.47
Jo Daviess	2.42
Johnson	2.48
Kane	2.47
Kankakee	2.46
Kendall	2.46
Knox	2.46
Lake	2.48
La Salle	2.45
Lawrence	2.45
Lee	2.45
Livingston	2.45
Logan	2.45
McDonough	2.46
McHenry	2.47
McLean	2.44
Macon	2.45
Macoupin	2.47
Madison	2.49
Marion	2.46
Marshall	2.45
Mason	2.46
Massac	2.49
Menard	2.45
Mercer	2.44
Monroe	2.50
Montgomery	2.46
Morgan	2.46
Moultrie	2.44
Ogle	2.44
Peoria	2.46
Perry	2.49
Piatt	2.44
Pike	2.46
Pope	2.48
Pulaski	2.49
Putnam	2.45
Randolph	2.49
Richland	2.45
Rock Island	2.44
St. Clair	2.50
Saline	2.47
Sangamon	2.45
Schuyler	2.46
Scott	2.46
Shelby	2.45
Stark	2.46
Stephenson	2.42
Tazewell	2.45
Union	2.48
Vermilion	2.44
Wabash	2.46
Warren	2.46
Washington	2.50
Wayne	2.46
White	2.46
Whiteside	2.44
Will	2.48
Williamson	2.47
Winnebago	2.43
Woodford	2.45
Wght. State Avg	2.45
INDIANA	
Adams	2.43
Allen	2.43
Bartholomew	2.44
Benton	2.45
Blackford	2.42
Boone	2.40
Brown	2.44
Carroll	2.43
Cass	2.45
Clark	2.47
Clay	2.42
Clinton	2.41
Crawford	2.47
Daviess	2.46
Dearborn	2.47
Decatur	2.44
De Kalb	2.43
Delaware	2.41
Dubois	2.46
Elkhart	2.45
Fayette	2.43
Floyd	2.47
Fountain	2.42
Franklin	2.46
Fulton	2.45
Gibson	2.47
Grant	2.42
Greene	2.44
Hamilton	2.40
Hancock	2.41
Harrison	2.47
Hendricks	2.41
Henry	2.41
Howard	2.43
Huntington	2.42
Jackson	2.46
Jasper	2.46
Jay	2.43
Jefferson	2.47
Jennings	2.46
Johnson	2.42
Knox	2.46
Kosciusko	2.45
Lagrange	2.43
Lake	2.48
La Porte	2.46
Lawrence	2.46
Madison	2.40
Marion	2.41
Marshall	2.46
Martin	2.46
Miami	2.43
Monroe	2.44
Montgomery	2.42
Morgan	2.42
Newton	2.46
Noble	2.43
Ohio	2.47
Orange	2.46
Owen	2.42
Parke	2.42
Perry	2.47
Pike	2.46
Porter	2.48
Posey	2.47
Pulaski	2.46
Putnam	2.41
Randolph	2.42
Ripley	2.46
Rush	2.42
St. Joseph	2.46
Scott	2.47
Shelby	2.42
Spencer	2.47
Starke	2.46
Steuben	2.43
Sullivan	2.44
Switzerland	2.47
Tippecanoe	2.43
Tipton	2.41
Union	2.44
Vanderburgh	2.47
Vermillion	2.43
Vigo	2.43
Wabash	2.43
Warren	2.43
Warrick	2.47
Washington	2.47
Wayne	2.42
Wells	2.42
White	2.45
Whitley	2.43
Wght. State Avg	2.44
IOWA	
Adair	2.37
Adams	2.40
Allamakee	2.35
Appanoose	2.40
Audubon	2.37
Benton	2.38
Black Hawk	2.38
Boone	2.36
Bremer	2.37
Buchanan	2.38
Buena Vista	2.33
Butler	2.36

County	Rate per bushel
Calhoun	2.34
Carroll	2.37
Cass	2.38
Cedar	2.41
Cerro Gordo	2.35
Cherokee	2.33
Chickasaw	2.36
Clarke	2.39
Clay	2.31
Clayton	2.37
Clinton	2.41
Crawford	2.38
Dallas	2.36
Davis	2.41
Decatur	2.41
Delaware	2.38
Des Moines	2.41
Dickinson	2.29
Dubuque	2.39
Emmet	2.29
Fayette	2.37
Floyd	2.36
Franklin	2.35
Fremont	2.41
Greene	2.35
Grundy	2.37
Guthrie	2.36
Hamilton	2.35
Hancock	2.34
Hardin	2.37
Harrison	2.39
Henry	2.41
Howard	2.34
Humboldt	2.32
Ida	2.35
Iowa	2.39
Jackson	2.40
Jasper	2.36
Jefferson	2.40
Johnson	2.40
Jones	2.39
Keokuk	2.40
Kossuth	2.31
Lee	2.41
Linn	2.38
Louisa	2.41
Lucas	2.39
Lyon	2.30
Madison	2.37
Mahaska	2.39
Marion	2.38
Marshall	2.38
Mills	2.40
Mitchell	2.34
Monona	2.38
Monroe	2.39
Montgomery	2.40
Muscatine	2.41
O'Brien	2.32
Osceola	2.30
Page	2.42
Palo Alto	2.30
Plymouth	2.34
Pocahontas	2.33
Polk	2.37
Pottawattamie	2.40
Poweshiek	2.38
Ringgold	2.42
Sac	2.35
Scott	2.41
Shelby	2.39
Sioux	2.32
Story	2.38
Tama	2.38
Taylor	2.42
Union	2.40
Van Buren	2.41
Wapello	2.40
Warren	2.38
Washington	2.40
Wayne	2.40
Webster	2.34
Winnebago	2.33
Winneshiek	2.35
Woodbury	2.36
Worth	2.34
Wright	2.34
Wght. State Avg	2.37
KANSAS	
Allen	2.47
Anderson	2.48
Atchison	2.39
Barber	2.41
Barton	2.39
Bourbon	2.49
Brown	2.47
Butler	2.43
Chase	2.43
Chautauqua	2.43
Cherokee	2.49
Cheyenne	2.37
Clark	2.41
Clay	2.41
Cloud	2.41
Coffey	2.46
Comanche	2.41
Cowley	2.42
Crawford	2.49
Decatur	2.39
Dickinson	2.41
Doniphan	2.47
Douglas	2.49
Edwards	2.40
Elk	2.43
Ellis	2.39
Ellsworth	2.40
Finney	2.40
Ford	2.41
Franklin	2.48
Geary	2.43
Gove	2.38
Graham	2.38
Grant	2.41
Gray	2.41
Greeley	2.39
Greenwood	2.44
Hamilton	2.40
Harper	2.41
Harvey	2.41
Haskell	2.41
Hodgeman	2.40
Jackson	2.47
Jefferson	2.49
Jewell	2.40
Johnson	2.50
Kearny	2.40
Kingman	2.41
Kiowa	2.40
Labette	2.45
Lane	2.39
Leavenworth	2.50
Lincoln	2.40
Linn	2.49
Logan	2.38
Lyon	2.45
McPherson	2.41
Marion	2.41
Marshall	2.45
Meade	2.42
Miami	2.49
Mitchell	2.40
Montgomery	2.44
Morris	2.43
Morton	2.42
Nemaha	2.48
Neosho	2.47
Ness	2.39
Norton	2.40
Osage	2.46
Osborne	2.39
Ottawa	2.41
Pawnee	2.40
Phillips	2.40
Pottawatomie	2.46
Pratt	2.40
Rawlins	2.38
Reno	2.40
Republic	2.42
Rice	2.40
Riley	2.45
Rooks	2.39
Rush	2.39
Russell	2.39
Saline	2.41
Scott	2.39
Sedgwick	2.42
Seward	2.42
Shawnee	2.47
Sheridan	2.38
Sherman	2.38
Smith	2.40
Stafford	2.40
Stanton	2.41
Stevens	2.42
Sumner	2.42
Thomas	2.38
Trego	2.38
Wabaunsee	2.45
Wallace	2.38
Washington	2.44
Wichita	2.29
Wilson	2.45
Woodson	2.46
Wyandotte	2.50
Wght. State Avg	2.42
KENTUCKY	
Ballard	2.52
Boone	2.51
Bracken	2.53
Breckinridge	2.52
Bullitt	2.53
Campbell	2.51
Carroll	2.52
Crittenden	2.52
Daviess	2.52
Gallatin	2.52
Hancock	2.52
Henderson	2.52
Jefferson	2.52
Kenton	2.51
Lewis	2.53
Livingston	2.52
McCracken	2.52
Mason	2.53
Meade	2.52
Oldham	2.52
Trimble	2.52
Union	2.52
All other Counties	2.54
Wght. State Avg	2.53
LOUISIANA	
All Counties	2.57
MAINE	
All Counties	2.67
MARYLAND	
All Counties	2.61
MASSACHUSETTS	
All Counties	2.67
MICHIGAN	
Alcona	2.40
Alger	2.38
Allegan	2.40
Alpena	2.40
Antrim	2.40
Arenac	2.39
Baraga	2.39
Barry	2.39
Bay	2.38
Benzie	2.40
Berrien	2.45
Branch	2.42
Calhoun	2.40
Cass	2.43
Charlevoix	2.40
Cheboygan	2.40
Chippewa	2.38
Clare	2.36
Clinton	2.39
Crawford	2.40
Delta	2.38
Dickinson	2.38
Eaton	2.40
Emmet	2.40
Genesee	2.40
Gladwin	2.38
Gogebic	2.38
Grand Traverse	2.40
Gratiot	2.37
Hillsdale	2.43
Houghton	2.38
Huron	2.38
Ingham	2.40
Ionia	2.39
Iosco	2.39
Iron	2.38
Isabella	2.37
Jackson	2.41
Kalamazoo	2.41
Kalkaska	2.40
Kent	2.39
Keweenaw	2.38

County	Rate per bushel
Lake	2.39
Lapeer	2.40
Leelanau	2.40
Lenawee	2.44
Livingston	2.41
Luce	2.38
Mackinac	2.38
Macomb	2.41
Manistee	2.39
Marquette	2.38
Mason	2.39
Mecosta	2.37
Menominee	2.38
Midland	2.37
Missaukee	2.39
Monroe	2.45
Montcalm	2.37
Montmorency	2.40
Muskegon	2.39
Newaygo	2.38
Oakland	2.41
Oceana	2.39
Ogemaw	2.39
Ontonagon	2.38
Osceola	2.38
Oscoda	2.40
Otsego	2.40
Ottawa	2.39
Presque Isle	2.40
Roscommon	2.39
Saginaw	2.37
St. Clair	2.40
St. Joseph	2.42
Sanilac	2.38
Schoolcraft	2.38
Shiawassee	2.39
Tuscola	2.37
Van Buren	2.41
Washtenaw	2.42
Wayne	2.43
Wexford	2.39
Wght. State Avg	2.40
MINNESOTA	
Aitkin	2.31
Anoka	2.31
Becker	2.29
Beltrami	2.29
Benton	2.31
Big Stone	2.26
Blue Earth	2.30
Brown	2.29
Carlton	2.31
Carver	2.31
Cass	2.29
Chippewa	2.29
Chisago	2.31
Clay	2.29
Clearwater	2.29
Cook	2.31
Cottonwood	2.27
Crow Wing	2.30
Dakota	2.31
Dodge	2.31
Douglas	2.30
Faribault	2.29
Fillmore	2.33
Freeborn	2.30
Goodhue	2.31
Grant	2.29
Hennepin	2.31
Houston	2.33
Hubbard	2.29
Isanti	2.31
Itasca	2.31
Jackson	2.26
Kanabec	2.31
Kandiyohi	2.30
Kittson	2.29
Koochiching	2.31
Lac qui Parle	2.26
Lake	2.31
Lake of the Woods	2.29
Le Sueur	2.31
Lincoln	2.25
Lyon	2.26
McLeod	2.31
Mahnomen	2.29
Marshall	2.29
Martin	2.28
Meeker	2.31
Mille Lacs	2.31
Morrison	2.30
Mower	2.32
Murray	2.27
Nicollet	2.30
Nobles	2.28
Norman	2.29
Olmsted	2.32
Otter Tail	2.29
Pennington	2.29
Pine	2.31
Pipestone	2.27
Polk	2.29
Pope	2.29
Ramsey	2.31
Red Lake	2.29
Redwood	2.28
Renville	2.30
Rice	2.31
Rock	2.28
Roseau	2.29
St. Louis	2.31
Scott	2.31
Sherburne	2.31
Sibley	2.31
Stearns	2.30
Steele	2.30
Stevens	2.28
Swift	2.28
Todd	2.30
Traverse	2.26
Wabasha	2.31
Wadena	2.30
Waseca	2.30
Washington	2.31
Watonwan	2.28
Wilkin	2.26
Winona	2.32
Wright	2.31
Yellow Medicine	2.27
Wght. State Avg	2.29
MISSISSIPPI	
All counties	2.57
MISSOURI	
Adair	2.44
Andrew	2.48
Atchison	2.45
Audrain	2.46
Barry	2.51
Barton	2.47
Bates	2.48
Benton	2.46
Bollinger	2.48
Boone	2.45
Buchanan	2.49
Butler	2.49
Caldwell	2.49
Callaway	2.46
Camden	2.47
Cape Girardeau	2.48
Carroll	2.48
Carter	2.49
Cass	2.49
Cedar	2.48
Chariton	2.47
Christian	2.51
Clark	2.43
Clay	2.49
Clinton	2.49
Cole	2.46
Cooper	2.44
Crawford	2.48
Dade	2.48
Dallas	2.49
Daviess	2.47
De Kalb	2.47
Dent	2.49
Douglas	2.53
Dunklin	2.49
Franklin	2.48
Gasconade	2.46
Gentry	2.45
Greene	2.49
Grundy	2.46
Harrison	2.45
Henry	2.47
Hickory	2.47
Holt	2.46
Howard	2.45
Howell	2.53
Iron	2.48
Jackson	2.49
Jasper	2.48
Jefferson	2.49
Johnson	2.49
Knox	2.44
Laclede	2.49
Lafayette	2.49
Lawrence	2.49
Lewis	2.44
Lincoln	2.47
Linn	2.46
Livingston	2.48
McDonald	2.50
Macon	2.45
Madison	2.48
Maries	2.47
Marion	2.44
Mercer	2.44
Miller	2.47
Mississippi	2.49
Moniteau	2.46
Monroe	2.45
Montgomery	2.46
Morgan	2.46
New Madrid	2.49
Newton	2.49
Nodaway	2.46
Oregon	2.51
Osage	2.46
Ozark	2.53
Pemiscot	2.49
Perry	2.48
Pettis	2.45
Phelps	2.49
Pike	2.46
Platte	2.49
Polk	2.49
Pulaski	2.48
Putnam	2.43
Ralls	2.45
Randolph	2.45
Ray	2.49
Reynolds	2.49
Ripley	2.49
St. Charles	2.47
St. Clair	2.47
St. Francois	2.48
Ste. Genevieve	2.48
St. Louis	2.49
Saline	2.47
Schuyler	2.44
Scotland	2.43
Scott	2.49
Shannon	2.51
Shelby	2.44
Stoddard	2.49
Stone	2.51
Sullivan	2.45
Taney	2.53
Texas	2.51
Vernon	2.47
Warren	2.47
Washington	2.48
Wayne	2.49
Webster	2.51
Worth	2.45
Wright	2.51
Wght. State Avg	2.46
MONTANA	
All counties	2.49
NEBRASKA	
Adams	2.37
Antelope	2.37
Arthur	2.37
Banner	2.42
Blaine	2.33
Boone	2.37
Box Butte	2.40
Boyd	2.34
Brown	2.33
Buffalo	2.34
Burt	2.41
Butler	2.40
Cass	2.41
Cedar	2.35
Chase	2.36
Cherry	2.35
Cheyenne	2.40
Clay	2.39
Colfax	2.40
Cuming	2.39
Custer	2.33
Dakota	2.35

County	Rate per bushel
Dawes	2.40
Dawson	2.33
Deuel	2.40
Dixon	2.35
Dodge	2.40
Douglas	2.42
Dundy	2.35
Fillmore	2.40
Franklin	2.37
Frontier	2.35
Furnas	2.36
Gage	2.43
Garden	2.38
Garfield	2.34
Gosper	2.35
Grant	2.37
Greeley	2.36
Hall	2.38
Hamilton	2.38
Harlan	2.37
Hayes	2.35
Hitchcock	2.35
Holt	2.34
Hooker	2.35
Howard	2.36
Jefferson	2.42
Johnson	2.43
Kearney	2.36
Keith	2.38
Keya Paha	2.33
Kimball	2.42
Knox	2.35
Lancaster	2.41
Lincoln	2.35
Logan	2.34
Loup	2.33
McPherson	2.35
Madison	2.37
Merrick	2.36
Morrill	2.42
Nance	2.37
Nemaha	2.43
Nuckolls	2.39
Otoe	2.42
Pawnee	2.44
Perkins	2.37
Phelps	2.38
Pierce	2.37
Platte	2.38
Polk	2.38
Red Willow	2.35
Richardson	2.45
Rock	2.33
Saline	2.41
Sarpy	2.40
Saunders	2.40
Scotts Bluff	2.42
Seward	2.40
Sheridan	2.38
Sherman	2.34
Sioux	2.42
Stanton	2.39
Thayer	2.40
Thomas	2.34
Thurston	2.39
Valley	2.34
Washington	2.42
Wayne	2.37
Webster	2.37
Wheeler	2.36
York	2.38
Wght. State Avg	2.37
NEVADA	
All counties	2.62
NEW HAMPSHIRE	
All counties	2.67
NEW JERSEY	
All counties	2.63
NEW MEXICO	
Curry	2.53
Harding	2.53
Lea	2.53
Quay	2.53
Roosevelt	2.53
Union	2.53
All other counties	2.60
Wght. State Avg	2.55
NEW YORK	
All counties	2.62
NORTH CAROLINA	
All counties	2.60
NORTH DAKOTA	
All counties	2.33
OHIO	
Adams	2.48
Allen	2.45
Ashland	2.48
Ashtabula	2.55
Athens	2.51
Auglaize	2.44
Belmont	2.53
Brown	2.48
Butler	2.45
Carroll	2.52
Champaign	2.44
Clark	2.44
Clermont	2.47
Clinton	2.46
Columbiana	2.55
Coshocton	2.49
Crawford	2.46
Cuyahoga	2.51
Darke	2.43
Defiance	2.44
Delaware	2.45
Erie	2.47
Fairfield	2.47
Fayette	2.45
Franklin	2.44
Fulton	2.46
Gallia	2.49
Geauga	2.53
Greene	2.44
Guernsey	2.51
Hamilton	2.46
Hancock	2.46
Hardin	2.45
Harrison	2.53
Henry	2.46
Highland	2.46
Hocking	2.48
Holmes	2.49
Huron	2.47
Jackson	2.48
Jefferson	2.54
Knox	2.46
Lake	2.53
Lawrence	2.49
Licking	2.46
Logan	2.45
Lorain	2.48
Lucas	2.48
Madison	2.44
Mahoning	2.55
Marion	2.48
Medina	2.50
Meigs	2.50
Mercer	2.43
Miami	2.44
Monroe	2.54
Montgomery	2.44
Morgan	2.51
Morrow	2.46
Muskingum	2.49
Noble	2.52
Ottawa	2.48
Paulding	2.44
Perry	2.49
Pickaway	2.45
Pike	2.47
Portage	2.53
Preble	2.44
Putnam	2.45
Richland	2.46
Ross	2.48
Sandusky	2.46
Scioto	2.48
Seneca	2.46
Shelby	2.44
Stark	2.52
Summit	2.51
Trumbull	2.55
Tuscarawas	2.51
Union	2.45
Van Wert	2.44
Vinton	2.48
Warren	2.48
Washington	2.53
Wayne	2.50
Williams	2.45
Wood	2.48
Wyandot	2.46
Wght. State Avg	2.46
OKLAHOMA	
Beaver	2.47
Beckham	2.51
Cimarron	2.46
Ellis	2.49
Harmon	2.51
Harper	2.47
Roger Mills	2.51
Texas	2.46
All other counties	2.53
OREGON	
Wght. State Avg	2.48
All counties	2.58
PENNSYLVANIA	
All counties	2.62
RHODE ISLAND	
All counties	2.67
SOUTH CAROLINA	
All counties	2.60
SOUTH DAKOTA	
Aurora	2.25
Beadle	2.25
Bennett	2.32
Bon Homme	2.29
Brookings	2.25
Brown	2.25
Brule	2.25
Buffalo	2.25
Butte	2.31
Campbell	2.27
Charles Mix	2.27
Clark	2.25
Clay	2.32
Codington	2.25
Corson	2.29
Custer	2.35
Davison	2.26
Day	2.25
Deuel	2.25
Dewey	2.29
Douglas	2.26
Edmunds	2.26
Fall River	2.38
Faulk	2.26
Grant	2.25
Gregory	2.27
Haakon	2.29
Hamlin	2.25
Hand	2.25
Hanson	2.36
Harding	2.31
Hughes	2.27
Hutchinson	2.28
Hyde	2.26
Jackson	2.30
Jerauld	2.25
Jones	2.29
Kingsbury	2.25
Lake	2.27
Lawrence	2.31
Lincoln	2.30
Lyman	2.27
McCook	2.27
McPherson	2.26
Marshall	2.25
Meade	2.30
Mellette	2.29
Miner	2.26
Minnehaha	2.28
Moody	2.27
Pennington	2.32
Perkins	2.29
Potter	2.26
Roberts	2.25
Sanborn	2.26
Shannon	2.35
Spink	2.25
Stanley	2.29
Sully	2.27
Todd	2.30
Tripp	2.28

County	Rate per bushel
Turner	2.29
Union	2.32
Walworth	2.28
Yankton	2.30
Ziebach	2.30
Wght. State Avg	2.27
TENNESSEE	
All Counties	2.56
Armstrong	2.51
Bailey	2.51
Briscoe	2.51
Carson	2.51
Castro	2.51
Childress	2.52
Cochran	2.53
Collingsworth	2.52
Cottle	2.53
Crosby	2.53
Dallam	2.51
Deaf Smith	2.51
Dickens	2.53
Donley	2.52
Floyd	2.51
Gray	2.51
Hale	2.51
Hall	2.52
Hansford	2.51
Hartley	2.51
Hemphill	2.51
Hockley	2.53
Hutchinson	2.51
King	2.53
Lamb	2.51
Lipscomb	2.51
Lubbock	2.53
Moore	2.51
Motley	2.53
Ochiltree	2.51
Oldham	2.51
Parmer	2.51
Potter	2.51
Randall	2.51
Roberts	2.51
Sherman	2.51
Swisher	2.51
Wheeler	2.52
All other Counties	2.58
Wght. State Avg	2.53
UTAH	
All Counties	2.61
VERMONT	
All Counties	2.67
VIRGINIA	
All Counties	2.61
WASHINGTON	
All Counties	2.56
WEST VIRGINIA	
All Counties	2.60
WISCONSIN	
Adams	2.37
Ashland	2.37
Barron	2.35
Bayfield	2.34
Brown	2.39
Buffalo	2.34
Burnett	2.33
Calumet	2.39
Chippewa	2.35
Clark	2.37
Columbia	2.41
Crawford	2.37
Dane	2.43
Dodge	2.43
Door	2.40
Douglas	2.32
Dunn	2.35
Eau Claire	2.35
Florence	2.39
Fond du Lac	2.41
Forest	2.39
Grant	2.39
Green	2.43
Green Lake	2.41
Iowa	2.43
Iron	2.38
Jackson	2.35
Jefferson	2.44
Juneau	2.37
Kenosha	2.46
Kewaunee	2.40
La Crosse	2.34
Lafyette	2.42
Langlede	2.39
Lincoln	2.38
Manitowoc	2.40
Marathon	2.38
Marinette	2.39
Marquette	2.39
Menominee	2.39
Milwaukee	2.44
Monroe	2.35
Oconto	2.39
Oneida	2.39
Outagamie	2.38
Ozaukee	2.42
Pepin	2.34
Polk	2.33
Portage	2.38
Price	2.37
Racine	2.46
Richland	2.40
Rock	2.44
Rusk	2.36
St. Croix	2.34
Sauk	2.40
Sawyer	2.36
Shawano	2.39
Sheboygan	2.40
Taylor	2.37
Trempealeau	2.34
Vernon	2.35
Vilas	2.39
Walworth	2.45
Washburn	2.35
Washington	2.43
Waukesah	2.44
Waupeca	2.39
Waushara	2.39
Winnebago	2.39
Wood	2.37
Wght. State Avg	2.40
WYOMING	
All Counties	2.49

(b) Schedule of premiums and discounts.

	Cents per bushel
(1) Premiums—do not apply to sample grade corn (percent):	
(i) Moisture:	
(A) 14.6 through 15.0	+2
(B) 14.1 through 14.5	+3
(C) 14.0 or less	−4
(ii) Broken corn and foreign material 2.0 or less	+2
(2) Discounts:	
(i) Class—mixed corn	−2
(ii) Test weight per bushel (pounds):	
(A) 53.0 through 53.9	−1
(B) 52.0 through 52.9	−2
(C) 51.0 through 51.9	−4
(D) 50.0 through 50.9	−6
(E) 49.0 through 49.9	−9
(iii) Total damage (percent):	
(A) 5.1 through 6.0	−1
(B) 6.1 through 7.0	−2
(iv) Heat damage (percent): .21 through .50	−1
(v) Broken corn and foreign material (percent): 3.1 through 4.0	−2
(3) Weed control laws (discount where required by § 1421.15)	−10

(4) Other factors. Corn exceeding limits shown on foregoing schedule or corn containing in excess of 15.5 percent moisture is not eligible for loan. In the event quanlity of corn exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the ASCS Kansas City Commodity Office for settlement purposes. That schedule will also provide discounts for certain quantity factors not specified above which affect the value of corn e.g., sour, stones, weevily, etc. Such discounts will be established prior to loan maturity and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain the schedule of such factors, discounts and adjustments at county ASCS offices prior to their loan maturity date or as soon thereafter as practicable.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c); secs. 105a, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421))

Signed at Washington, D.C., on September 3, 1981.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-26519 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-05-M

1981-Crop Oats Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1981-crop oats loan and purchase rates.

SUMMARY: This notice of determination sets forth the county loan and purchase rates applicable to the 1981 crop of barley. The county loan and purchase rates have been determined in order to make price support available with respect to eligible producers of 1981-crop oats in accordance with the Agricultural Act of 1949, as amended, (hereinafter referred to as the "Act").

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: C. G. Ware, (202) 447-7923.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases; Number: 10.051, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Price support for oats is made available each year by CCC through county Agricultural Stabilization and Conservation Service (ASCS) offices. Price support for each crop of oats is mandatory at a level which is determined in accordance with the formula prescribed by Section 105A of the Act. Section 105A of the Act provides that loans and purchases shall be made available to producers of 1981-crop oats at such level as the Secretary determines is fair and reasonable in relation to the level at which loans and purchases are made available for corn, taking into consideration the feeding value of commodity in relation to corn and other factors specified in Section 401(b) of the Act.

Section 403 of the Act provides, in part, as follows:

Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in the Act * * *.

The Secretary has determined that the 1981-crop oats loan and purchase rate will be $1.24 per bushel and has announced such rate in the Federal Register (46 FR 31451). The county loan and purchase rates determined herein reflect the level of support determined for the 1981 crop of oats.

This notice of determination also sets forth the premiums and discounts applicable to the 1981 crop of oats.

Accordingly, the individual county loan and purchase rates and premiums and discounts for the 1981 crop of oats are as follows:

Determinations

(a) Basic loan and purchase rates (counties).

County	Rate per bushel
ALABAMA	
All Counties	$1.37
ALASKA[1]	
Delta	1.01
Fairbanks	1.00
Glenallen	1.07
Homer	1.04
Kenai-Soldotna	1.09
Palmer	1.13
Talkeetna	1.13
Wght. State Avg	1.07
ARIZONA	
All Counties	1.44
ARKANSAS	
All Counties	1.34
CALIFORNIA	
All Counties	1.46
COLORADO	
All Counties	1.34
CONNECTICUT	
All Counties	1.36
DELAWARE	
All Counties	1.36
FLORIDA	
All Counties	1.40
GEORGIA	
All Counties	1.37
IDAHO	
All Counties	1.34
ILLINOIS	
Adams	1.27
Alexander	1.30
Bond	1.28
Boone	1.27
Brown	1.27
Bureau	1.27
Calhoun	1.28
Carroll	1.27
Cass	1.27
Champaign	1.28
Christian	1.27
Clark	1.30
Clay	1.29
Clinton	1.29
Coles	1.28
Cook	1.31
Crawford	1.31
Cumberland	1.29
De Kalb	1.27
De Witt	1.27
Douglas	1.28
Du Page	1.28
Edgar	1.29
Edwards	1.32
Effingham	1.29
Fayette	1.28
Ford	1.28
Franklin	1.30
Fulton	1.27
Gallatin	1.32
Greene	1.28
Grundy	1.27
Hamilton	1.31
Hancock	1.27
Hardin	1.31
Henderson	1.27
Henry	1.27
Iroquois	1.29
Jackson	1.30
Jasper	1.30
Jefferson	1.30
Jersey	1.28
Jo Daviess	1.27
Johnson	1.30
Kane	1.27
Kankakee	1.29
Kendall	1.27
Knox	1.27
Lake	1.29
La Salle	1.27
Lawrence	1.32
Lee	1.27
Livingston	1.27
Logan	1.27
McDonough	1.27
McHenry	1.27
McLean	1.27
Macon	1.27
Macoupin	1.28
Madison	1.29
Marion	1.29
Marshall	1.27
Mason	1.27
Massac	1.30
Menard	1.27
Mercer	1.27
Monroe	1.30
Montgomery	1.28
Morgan	1.27
Moultrie	1.27
Ogle	1.27
Peoria	1.27
Perry	1.30
Piatt	1.27
Pike	1.27
Pope	1.31
Pulaski	1.30
Putnam	1.27
Randolph	1.30
Richland	1.30
Rock Island	1.27
St. Clair	1.30
Saline	1.31
Sangamon	1.27
Schuyler	1.27
Scott	1.27
Shelby	1.27
Stark	1.27
Stephenson	1.27
Tazewell	1.27
Union	1.30
Vermillion	1.29
Wabash	1.32
Warren	1.27
Washington	1.30
Wayne	1.31
White	1.32
Whiteside	1.27
Will	1.30
Williamson	1.30
Winnebago	1.27
Woodford	1.27
Wght. State Avg	1.27
INDIANA	
Adams	1.36
Allen	1.36
Bartholomew	1.36
Benton	1.33
Blackford	1.35
Boone	1.34
Brown	1.36
Carroll	1.34
Cass	1.34
Clark	1.37
Clay	1.34
Clinton	1.34
Crawford	1.36
Daviess	1.36
Dearborn	1.38
Decatur	1.36
De Kalb	1.36
Delaware	1.35
Dubois	1.36
Elkhart	1.36
Fayette	1.35
Floyd	1.36
Fountain	1.33
Franklin	1.37
Fulton	1.35
Gibson	1.36
Grant	1.35
Greene	1.36
Hamilton	1.35
Hancock	1.35
Harrison	1.36
Hendricks	1.34
Henry	1.35
Howard	1.35
Huntington	1.35
Jackson	1.36
Jasper	1.33
Jay	1.36
Jefferson	1.38
Jennings	1.37
Johnson	1.34
Knox	1.36
Kosciusko	1.35
Lagrange	1.36
Lake	1.34
La Porte	1.35
Lawrence	1.36
Madison	1.35

County	Rate per bushel
Marion	1.34
Marshall	1.35
Martin	1.36
Miami	1.36
Monroe	1.36
Montgomery	1.34
Morgan	1.34
Newton	1.33
Noble	1.35
Ohio	1.38
Orange	1.36
Owen	1.34
Parke	1.33
Perry	1.36
Pike	1.36
Porter	1.34
Posey	1.36
Pulaski	1.34
Putnam	1.34
Randolph	1.36
Ripley	1.38
Rush	1.35
St. Joseph	1.35
Scott	1.37
Shelby	1.35
Spencer	1.36
Starke	1.34
Steuben	1.36
Sullivan	1.35
Switzerland	1.38
Tippecanoe	1.34
Tipton	1.35
Union	1.36
Vanderburgh	1.36
Vermillion	1.33
Vigo	1.34
Wabash	1.35
Warren	1.33
Warrick	1.36
Washington	1.36
Wayne	1.36
Wells	1.35
White	1.34
Whitley	1.35
Wght. State Avg	1.35
IOWA	
Adair	1.25
Adams	1.25
Allamakee	1.21
Appanoose	1.25
Audubon	1.23
Benton	1.25
Black Hawk	1.24
Boone	1.23
Bremer	1.23
Buchanan	1.24
Buena Vista	1.23
Butler	1.23
Calhoun	1.23
Carroll	1.23
Cass	1.25
Cedar	1.25
Cerro Gordo	1.21
Cherokee	1.23
Chickasaw	1.22
Clarke	1.25
Clay	1.21
Clayton	1.23
Clinton	1.25
Crawford	1.22
Dallas	1.23
Davis	1.26
Decatur	1.25
Delaware	1.24
Des Monies	1.25
Dickinson	1.20
Dubuque	1.24
Emmet	1.20
Fayette	1.23
Floyd	1.21
Franklin	1.23
Fremont	1.25
Greene	1.23
Grundy	1.23
Guthrie	1.23
Hamilton	1.23
Hancock	1.21
Hardin	1.23
Harrison	1.23
Henry	1.25
Howard	1.21
Humboldt	1.23
Ida	1.22
Iowa	1.25
Jackson	1.25
Jasper	1.23
Jefferson	1.25
Johnson	1.25
Jones	1.25
Keokuk	1.25
Kossuth	1.20
Lee	1.25
Linn	1.25
Louisa	1.25
Lucas	1.25
Lyon	1.19
Madison	1.25
Mahaska	1.25
Marion	1.25
Marshall	1.23
Mills	1.25
Mitchell	1.20
Monona	1.22
Monore	1.25
Montgomery	1.25
Muscatine	1.25
O'Brien	1.21
Osceola	1.19
Page	1.25
Palo Alto	1.22
Plymouth	1.21
Pocahontas	1.23
Polk	1.23
Pottawattamie	1.26
Poweshiek	1.23
Ringgold	1.25
Sac	1.23
Scott	1.25
Shelby	1.23
Sioux	1.20
Story	1.23
Tame	1.23
Taylor	1.25
Union	1.25
Van Buren	1.25
Wapello	1.25
Washington	1.25
Wayne	1.25
Webster	1.23
Winnebago	1.20
Winneshiek	1.21
Woodbury	1.21
Worth	1.20
Wright	1.23
Wght. State Avg.	1.23
KANSAS	
All Counties	1.30
KENTUCKY	
All Counties	1.37
LOUISIANA	
All Counties	1.37
MAINE	
All Counties	1.36
MARYLAND	
All Counties	1.37
MASSACHUSETTS	
MASSACHUSETTS	
All Counties	1.36
MICHIGAN	
Alcona	1.31
Alger	1.32
Allegan	1.33
Alpena	1.31
Antrim	1.32
Arenac	1.31
Baraga	1.31
Barry	1.33
Bay	1.31
Benzie	1.32
Berrien	1.34
Branch	1.34
Calhoun	1.33
Cass	1.34
Charlevoix	1.32
Cheboygan	1.32
Chippewa	1.32
Clare	1.32
Clinton	1.32
Crawford	1.31
Delta	1.31
Dickinson	1.31
Eaton	1.32
Emmet	1.32
Genesee	1.31
Gladwin	1.31
Gogebic	1.31
Grand Traverse	1.32
Gratiot	1.32
Hillsdale	1.34
Houghton	1.31
Huron	1.31
Ingham	1.32
Ionia	1.32
Iosco	1.31
Iron	1.31
Isabella	1.32
Jackson	1.33
Kalamazoo	1.33
Kalkaska	1.32
Kent	1.33
Keweenaw	1.31
Lake	1.33
Lapeer	1.31
Leelanau	1.32
Lenawee	1.34
Livingston	1.32
Luce	1.32
Mackinac	1.32
Macomb	1.32
Manistee	1.33
Marquette	1.31
Mason	1.33
Mecosta	1.32
Menominee	1.31
Midland	1.31
Missaukee	1.32
Monroe	1.34
Montcalm	1.32
Montmorency	1.31
Muskegon	1.33
Newaygo	1.33
Oakland	1.32
Oceana	1.33
Ogemaw	1.31
Ontonagon	1.31
Osceola	1.32
Oscoda	1.31
Otsego	1.32
Ottawa	1.33
Presque Isle	1.31
Roscommon	1.31
Saginaw	1.31
St. Clair	1.32
St. Joseph	1.34
Sanilac	1.31
Schoolcraft	1.32
Shiawassee	1.31
Tuscola	1.31
Van Buren	1.33
Washtenaw	1.33
Wayne	1.33
Wexford	1.33
Wght. State Avg.	1.32
MINNESOTA	
Aitkin	1.19
Anoka	1.21
Becker	1.15
Beltrami	1.15
Benton	1.19
Big Stone	1.16
Blue Earth	1.19
Brown	1.18
Carlton	1.21
Carver	1.20
Cass	1.17
Chippewa	1.17
Chisago	1.21
Clay	1.14
Clearwater	1.15
Cook	1.21
Cottonwood	1.18
Crow Wing	1.18
Dakota	1.20
Dodge	1.19
Douglas	1.17
Faribault	1.19
Fillmore	1.20
Freeborn	1.20
Goodhue	1.19
Grant	1.16
Hennepin	1.21
Houston	1.20

County	Rate per bushel
Hubbard	1.16
Isanti	1.20
Itasca	1.19
Jackson	1.18
Kanabec	1.20
Kandiyohi	1.18
Kittson	1.12
Koochiching	1.16
Lac qui Parle	1.17
Lake	1.21
Lake of the Woods	1.14
Le Sueur	1.19
Lincoln	1.17
Lyon	1.17
McLeod	1.19
Mahnomen	1.14
Marshall	1.13
Martin	1.18
Meeker	1.19
Mille Lacs	1.19
Morrison	1.18
Mower	1.19
Murray	1.17
Nicollet	1.19
Nobles	1.17
Norman	1.13
Olmsted	1.19
Otter Tail	1.16
Pennington	1.13
Pine	1.20
Pipestone	1.17
Polk	1.13
Pope	1.17
Ramsey	1.21
Red Lake	1.13
Redwood	1.18
Renville	1.18
Rice	1.19
Rock	1.17
Roseau	1.13
St. Louis	1.21
Scott	1.20
Sherburne	1.20
Sibley	1.19
Stearns	1.18
Steele	1.19
Stevens	1.16
Swift	1.17
Todd	1.17
Traverse	1.15
Wabasha	1.19
Wadena	1.17
Waseca	1.19
Washington	1.21
Watonwan	1.18
Wilkin	1.15
Winona	1.20
Wright	1.20
Yellow Medicine	1.17
Wght. State Avg.	1.17
MISSISSIPPI	
All Counties	1.37
MISSOURI	
All Counties	1.30
MONTANA	
Beaverhead	1.30
Big Horn	1.23
Blaine	1.20
Broadwater	1.26
Carbon	1.25
Carter	1.16
Cascade	1.25
Chouteau	1.22
Custer	1.17
Daniels	1.14
Dawson	1.13
Deer Lodge	1.26
Fallon	1.14
Fergus	1.22
Flathead	1.28
Gallatin	1.27
Garfield	1.18
Glacier	1.25
Golden Valley	1.24
Granite	1.29
Hill	1.21
Jefferson	1.27
Judith Basin	1.23
Lake	1.29
Lewis and Clark	1.27
Liberty	1.22
Lincoln	1.30
McCone	1.14
Madison	1.28
Meagher	1.25
Mineral	1.30
Missoula	1.29
Musselshell	1.23
Park	1.27
Petroleum	1.20
Phillips	1.19
Pondera	1.24
Powder River	1.18
Powell	1.28
Prairie	1.15
Ravalli	1.29
Richland	1.13
Roosevelt	1.13
Rosebud	1.21
Sanders	1.30
Sheridan	1.13
Silver Bow	1.28
Stillwater	1.25
Sweet Grass	1.26
Teton	1.24
Toole	1.23
Treasure	1.22
Valley	1.18
Wheatland	1.25
Wibaux	1.13
Yellowstone	1.24
Wght. State Avg	1.20
NEBRASKA	
Adams	1.25
Antelope	1.21
Arthur	1.23
Banner	1.23
Blaine	1.22
Boone	1.23
Box Butte	1.21
Boyd	1.19
Brown	1.20
Buffalo	1.24
Burt	1.23
Butler	1.25
Cass	1.26
Cedar	1.21
Chase	1.26
Cherry	1.20
Cheyenne	1.24
Clay	1.25
Colfax	1.24
Cuming	1.23
Custer	1.23
Dakota	1.23
Dawes	1.21
Dawson	1.24
Deuel	1.24
Dixon	1.22
Dodge	1.25
Douglas	1.26
Dundy	1.27
Fillmore	1.25
Franklin	1.26
Frontier	1.25
Furnas	1.26
Gage	1.27
Garden	1.23
Garfield	1.22
Gosper	1.25
Grant	1.22
Greeley	1.23
Hall	1.24
Hamilton	1.24
Harlan	1.26
Hayes	1.26
Hitchcock	1.27
Holt	1.20
Hooker	1.22
Howard	1.23
Jefferson	1.26
Johnson	1.27
Kearney	1.25
Keith	1.24
Keya Paha	1.19
Kimball	1.24
Knox	1.20
Lancaster	1.26
Lincoln	1.24
Logan	1.23
Loup	1.22
McPherson	1.23
Madison	1.22
Merrick	1.23
Morrill	1.23
Nance	1.23
Nemaha	1.27
Nuckolls	1.26
Otoe	1.26
Pawnee	1.27
Perkins	1.25
Phelps	1.25
Pierce	1.21
Platte	1.23
Polk	1.24
Red Willow	1.26
Richardson	1.27
Rock	1.20
Saline	1.26
Sarpy	1.26
Saunders	1.26
Scotts Bluff	1.23
Seward	1.25
Sheridan	1.21
Sherman	1.23
Sioux	1.21
Stanton	1.22
Thayer	1.26
Thomas	1.22
Thurston	1.23
Valley	1.23
Washington	1.25
Wayne	1.22
Webster	1.26
Wheeler	1.22
York	1.24
Wght. State Avg	1.22
NEVADA	
All Counties	1.44
NEW HAMPSHIRE	
All Counties	1.36
NEW JERSEY	
All Counties	1.37
NEW MEXICO	
All Counties	1.42
NEW YORK	
All Counties	1.42
NORTH CAROLINA	
All Counties	1.37
NORTH DAKOTA	
Adams	1.09
Barnes	1.10
Benson	1.08
Billings	1.07
Bottineau	1.06
Bowman	1.11
Burke	1.07
Burleigh	1.08
Cass	1.11
Cavalier	1.09
Dickey	1.10
Divide	1.09
Dunn	1.07
Eddy	1.09
Emmons	1.09
Foster	1.09
Golden Valley	1.09
Grand Forks	1.10
Grant	1.06
Griggs	1.09
Hettinger	1.08
Kidder	1.09
La Moure	1.10
Logan	1.09
McHenry	1.06
McIntosh	1.09
McKenzie	1.09
McLean	1.06
Mercer	1.06
Morton	1.07
Mountrail	1.07
Nelson	1.09
Oliver	1.07
Pembina	1.10
Pierce	1.07
Ramsey	1.09
Ransom	1.11
Renville	1.06

County	Rate per bushel
Richland	1.12
Rolette	1.07
Sargent	1.11
Sheridan	1.07
Sioux	1.08
Slope	1.10
Stark	1.06
Steele	1.10
Stutsman	1.10
Towner	1.08
Traill	1.10
Walsh	1.10
Ward	1.06
Wells	1.08
Williams	1.09
Wght. State Avg	1.06
OHIO	
Adams	1.38
Allen	1.36
Ashland	1.37
Ashtabula	1.39
Athens	1.39
Auglaize	1.36
Belmont	1.40
Brown	1.38
Butler	1.36
Carroll	1.39
Champaign	1.37
Clark	1.37
Clermont	1.38
Clinton	1.38
Columbiana	1.39
Coshocton	1.38
Crawford	1.37
Cuyahoga	1.38
Darke	1.35
Defiance	1.35
Delaware	1.37
Erie	1.37
Fairfield	1.37
Fayette	1.37
Franklin	1.37
Fulton	1.36
Gallia	1.39
Geauga	1.38
Greene	1.37
Guernsey	1.39
Hamilton	1.37
Hancock	1.36
Hardin	1.36
Harrison	1.39
Henry	1.36
Highland	1.38
Hocking	1.38
Holmes	1.39
Huron	1.37
Jackson	1.38
Jefferson	1.40
Knox	1.37
Lake	1.38
Lawrence	1.38
Licking	1.37
Logan	1.37
Lorain	1.38
Lucas	1.36
Madison	1.37
Mahoning	1.39
Marion	1.37
Medina	1.38
Meigs	1.39
Mercer	1.34
Miami	1.36
Monroe	1.40
Montgomery	1.36
Morgan	1.39
Morrow	1.37
Muskingum	1.38
Noble	1.39
Ottawa	1.37
Paulding	1.35
Perry	1.38
Pickaway	1.37
Pike	1.38
Portage	1.38
Preble	1.35
Putnam	1.36
Richland	1.37
Ross	1.38
Sandusky	1.37
Scioto	1.38
Seneca	1.37
Shelby	1.36
Stark	1.38
Summit	1.38
Trumbull	1.39
Tuscarawas	1.38
Union	1.37
Van Wert	1.35
Vinton	1.38
Warren	1.37
Washington	1.40
Wayne	1.38
Williams	1.36
Wood	1.38
Wyandot	1.37
Wght. State Avg	1.37
OKLAHOMA	
All Counties	1.37
OREGON	
All Counties	1.40
PENNSYLVANIA	
All Counties	1.42
RHODE ISLAND	
All Counties	1.36
SOUTH CAROLINA	
All Counties	1.37
SOUTH DAKOTA	
Aurora	1.13
Beadle	1.13
Bennett	1.14
Bon Homme	1.16
Brookings	1.14
Brown	1.11
Brule	1.13
Buffalo	1.13
Butte	1.12
Campbell	1.10
Charles Mix	1.14
Clark	1.12
Clay	1.18
Codington	1.13
Corson	1.10
Custer	1.15
Davison	1.13
Day	1.12
Deuel	1.14
Dewey	1.12
Douglas	1.14
Edmunds	1.11
Fall River	1.15
Faulk	1.12
Grant	1.14
Gregory	1.14
Haakon	1.13
Hamlin	1.13
Hand	1.13
Hanson	1.13
Harding	1.11
Hughes	1.13
Hutchinson	1.15
Hyde	1.13
Jackson	1.13
Jerauld	1.13
Jones	1.13
Kingsbury	1.13
Lake	1.13
Lawrence	1.12
Lincoln	1.16
Lyman	1.13
McCook	1.14
McPherson	1.10
Marshall	1.11
Meade	1.12
Mellette	1.14
Miner	1.13
Minnehaha	1.15
Moody	1.14
Pennington	1.13
Perkins	1.09
Potter	1.12
Roberts	1.12
Sanborn	1.13
Shannon	1.15
Spink	1.12
Stanley	1.13
Sully	1.13
Todd	1.14
Tripp	1.14
Turner	1.16
Union	1.18
Walworth	1.12
Yankton	1.17
Ziebach	1.12
Wght. State Avg	1.13
TENNESSEE	
All Counties	1.37
TEXAS	
All Counties	1.40
UTAH	
All Counties	1.42
VERMONT	
All Counties	1.36
VIRGINIA	
All Counties	1.37
WASHINGTON	
All Counties	1.38
WEST VIRGINIA	
All Counties	1.39
WISCONSIN	
Adams	1.25
Ashland	1.25
Barron	1.23
Bayfield	1.24
Brown	1.24
Buffalo	1.22
Burnett	1.22
Calumet	1.24
Chippewa	1.24
Clark	1.24
Columbia	1.24
Crawford	1.25
Dane	1.26
Dodge	1.25
Door	1.24
Douglas	1.22
Dunn	1.23
Eau Claire	1.23
Florence	1.26
Fond du Lac	1.24
Forest	1.26
Grant	1.25
Green	1.26
Green Lake	1.25
Iowa	1.26
Iron	1.26
Jackson	1.24
Jefferson	1.26
Juneau	1.25
Kenosha	1.27
Kewaunee	1.24
La Crosse	1.23
Lafayette	1.26
Langlade	1.25
Lincoln	1.25
Manitowoc	1.24
Marathon	1.25
Marinette	1.26
Marquette	1.25
Menominee	1.25
Milwaukee	1.27
Monroe	1.24
Oconto	1.25
Oneida	1.26
Outagamie	1.24
Ozaukee	1.26
Pepin	1.22
Pierce	1.22
Polk	1.22
Portage	1.25
Price	1.25
Racine	1.27
Richland	1.24
Rock	1.26
Rusk	1.24
St. Croix	1.22
Sauk	1.26
Sawyer	1.24
Shawano	1.25
Sheboygan	1.25
Taylor	1.25
Trempealeau	1.23
Vernon	1.23
Vilas	1.26
Walworth	1.26
Washburn	1.23
Washington	1.26
Waukesha	1.27
Waupaca	1.25

County	Rate per bushel
Waushara	1.25
Winnebago	1.24
Wood	1.25
Wght. State Avg.	1.24
WYOMING	
All Counties	1.32

[1] In Alaska, loan rates are for marketing areas.

(b) Schedule of premiums and discounts.

	Cents per bushel
(1) Premiums: [1]	
(i) Grade U.S. No. 1	+2
(ii) Grade U.S. No. 2	+1
(iii) Test Weight:	
(A) Heavy	+1
(B) Extra Heavy	+2
(2) Discounts:	
(i) Grade U.S. No. 4 on the factor of test weight only, but otherwise U.S. No. 3 or better	−3
(ii) Slightly weathered [1]	−5
(iii) Materially weathered and badly stained	−10
(iv) Garlicky	−3
(v) Weed control discount (where required by § 1421.24)	−10

[1] Premiums shall not be applicable to slightly weathered, materially weathered or badly stained oats.
[2] No discount if oats are otherwise U.S. No. 2 or better.

(3) Other factors. Oats with quality factors exceeding limits shown in foregoing schedule or oats that (1) contain in excess of 14 percent moisture, (2) is weevily, (3) is musty, or (4) is sour, shall not be eligible for loan. In the event quantities of oats exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the ASCS Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of oats to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedule of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421))

Signed at Washington, D.C., on September 3, 1981.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-26517 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-05-M

1981-Crop Rye Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination of 1981-Crop Rye Loan and Purchase Rates.

SUMMARY: This notice of determination sets forth the county loan and purchase rates applicable to the 1981 crop of rye. The county loan and purchase rates have been determined in order to make price support available with respect to eligible producers of 1981-crop rye in accordance with the Agricultural Act of 1949, as amended, (hereinafter referred to as the "Act").

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: C. G. Ware, (202) 447-7923.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases; Number: 10.051, as found in the catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Price support for rye is made available each year by CCC through county Agricultural Stabilization and Conservation Service (ASCS) offices. Price support for each crop of rye is mandatory at a level which is determined in accordance with the formula prescribed by Section 105A of the Act. Section 105A of the Act provides that loans and purchases shall be made available to producers of 1981-crop rye at such level as the Secretary determines is fair and reasonable in relation to the level at which loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in Section 401(b) of the Act.

Section 403 of the Act provides, in part, as follows:

"Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act * * *."

The Secretary has determined that the 1981-crop rye loan and purchase rate will be $2.04 per bushel and has announced such rate in the **Federal Register** (46 FR 31451). The county loan and purchase rates determined herein reflect the level of support determined for the 1981 crop of rye.

This notice of determination also sets forth the premiums and discounts applicable to the 1981 crop of rye.

Accordingly, the individual county loan and purchase rates and premiums and discounts for the 1981 crop of rye are as follows:

Determinations

(a) Basic loan and purchase rates (counties).

County	Rate per bushel
ALABAMA	
All Counties	$2.15
ARIZONA	
All Counties	2.12
ARKANSAS	
All Counties	2.09
CALIFORNIA	
Alameda	2.29
Los Angles	2.29
Sacramento	2.29
San Diego	2.29
San Francisco	2.29
San Joaquin	2.29
All other Counties	2.16
Wght. State Avg	2.16
COLORADO	
All Counties	1.98
CONNECTICUT	
All Counties	2.13
DELAWARE	
All Counties	2.18
FLORIDA	
All Counties	2.22
GEORGIA	
All Counties	2.22
IDAHO	
All other Counties	2.07
ILLINOIS	
Cook	2.16
St. Clair	2.16
All Counties	2.07
Wght. State Ave	2.07
INDIANA	
All Counties	2.08
IOWA	
Pottawanttamie	2.09
Woodbury	2.09
All other Counties	2.05
Wght. State Avg	2.05
KANSAS	
Wyandotte	2.07
All other Counties	1.97
Wght. State Avg	1.97

County	Rate per bushel
KENTUCKY	
All Counties	2.15
LOUISIANA	
East Baton Rouge	2.31
Jefferson	2.31
Orleans	2.31
St. Charles	2.31
West Baton Rouge	2.31
All other Counties	2.12
Wght. State Avg	2.12
MAINE	
All Counties	2.13
MARYLAND	
Baltimore	$2.29
All other Counties	2.18
Wght. State Avg	2.18
MASSACHUSETTS	
All Counties	2.13
MICHIGAN	
All Counties	2.00
MINNESOTA	
Hennepin	2.11
St. Louis	2.11
All other Counties	2.05
Wght. State Avg	2.05
MISSISSIPPI	
All Counties	2.17
MISSOURI	
St. Louis	2.20
All other Counties	2.07
Wght. State Avg	2.07
MONTANA	
All Counties	1.88
NEBRASKA	
All Counties	1.97
NEVADA	
All Counties	2.02
NEW HAMPSHIRE	
All Counties	2.13
NEW JERSEY	
All Counties	2.15
NEW MEXICO	
All Counties	2.02
NEW YORK	
Albany	2.29
New York City	2.29
All other Counties	2.13
Wght. State Avg	2.13
NORTH CAROLINA	
All Counties	2.22
NORTH DAKOTA	
All Counties	1.92
OHIO	
All Counties	2.08
OKLAHOMA	
All Counties	2.05
OREGON	
Clatsop	2.30
Multnomah	2.30
All other Counties	2.17
Wght. State Avg	2.17
PENNSYLVANIA	
Philadelphia	2.29
All other Counties	2.13
Wght. State Avg	2.13
RHODE ISLAND	
All Counties	2.13
SOUTH CAROLINA	
Charleston	2.29
All other Counties	2.20
Wght. State Avg	2.20
SOUTH DAKOTA	
All Counties	1.97
TENNESSEE	
Shelby	2.22
All other Counties	2.17
Wght. State Avg	2.17
TEXAS	
Galveston	$2.31
Harris	2.31
Jefferson	2.31
Nueces	2.31
San Patricio	2.31
All other Counties	2.10
Wght. State Avg	2.10
UTAH	
All Counties	1.97
VERMONT	
All Counties	2.13
VIRGINIA	
Chesapeake (Norfolk)	2.29
All other Counties	2.18
Wght. State Avg	2.18
WASHINGTON	
Clark	2.30
Cowlitz	2.30
King	2.30
Pierce	2.30
All other Counties	2.17
Wght. State Avg	2.17
WEST VIRGINIA	
All Counties	2.15
WISCONSIN	
Douglas	2.09
Milwaukee	2.17
All other Counties	2.08
Wght. State Avg	2.08
WYOMING	
All Counties	1.97

(b) Schedule of premiums and discounts.

	Cents/ Bushel
(1) Premiums—Rye, grading U.S. No. 1	+2
(2) Discounts:	
(i) Rye, grading U.S. No. 3 on account of "thin" rye:	
(A) 15.1-17.0 % thins	−3
(B) 17.1-19.0 % thins	−5
(C) 19.1-21.0 % thins	−7
(D) 21.1-23.0 % thins	−9
(E) 23.1-25.0 % thins	−11
(ii) Rye grading U.S. No. 3 for factors other than test weight or % of thins	−5
(iii) Weed control discount (where required by § 1421.24)	−10

(3) Other factors. Rye, grading U.S. No. 4 or sample grade, is not eligible for loan. In the event quantities of rye grading U.S. No. 4 or sample grade are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the ASCS Kansas City Commodity Office for settlement purposes. The schedule will also provide discounts for certain quality factors not specified above which affect the value of rye, e.g., weevily, ergoty, stones, etc. Such discounts will be established prior to loan maturity and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedule of such factors, discounts and adjustments at county ASCS offices prior to their loan maturity date or as soon thereafter as practicable.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421))

Signed at Washington, D.C. on September 3, 1981.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-26510 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-05-M

1981-Crop Sorghum Loan and Purchase Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1981-crop sorghum loan and purchase rates.

SUMMARY: This notice of determination sets forth the county loan and purchase rates applicable to the 1981 crop of sorghum. The county loan and purchase rates have been determined in order to make price support available with respect to eligible producers of 1981-crop sorghum in accordance with the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act").

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: W. W. Beesley, (202) 447-7923.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases; Number: 10.051, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Price support for sorghum is made available each year by CCC through county Agricultural Stabilization and Conservation Service (ASCS) offices.

Price support for each crop of sorghum is mandatory at a level which is determined in accordance with the formula prescribed by Section 105A of the Act. Section 105A of the Act provides that loans and purchases shall be made available to producers of 1981-crop sorghum at such level as the Secretary determines is fair and reasonable in relation to the level at which loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of sorghums in relation to corn.

Section 403 of the Act provides, in part, as follows:

Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act * * *.

The Secretary has determined that the 1981-crop sorghum loan rate will be $4.07 per hundredweight and has announced such rate in the **Federal Register** (46 FR 31451). The county loan and purchase rates determined herein reflect the level of support determined for the 1981 crop of sorghum.

This notice of determination also sets forth the discounts applicable to the 1981 crop of sorghum.

Accordingly, the individual county loan and purchase rates and discounts for the 1981 crop of sorghum are as follows:

Determinations

(a) Basic loan and purchase rates (counties).

County	Rate per hundredweight
ALABAMA	
All Counties	$4.06
ARIZONA	
Apache	4.18
Cochise	4.40
Coconino	4.18
Gila	4.18
Graham	4.22
Greenlee	4.18
Maricopa	4.54
Mohave	4.66
Navajo	4.18
Pima	4.46
Pinal	4.54
Santa Cruz	4.43
Yavapai	4.18
Yuma	4.59
Wght. State Avg.	4.47
ARKANSAS	
Arkansas	4.07
Ashley	4.03
Baxter	3.95
Benton	3.92
Boone	3.93
Bradley	4.01
Calhoun	4.00
Carroll	3.91
Chicot	4.03
Clark	3.99
Clay	4.09
Cleburne	4.02
Cleveland	4.03
Columbia	4.01
Conway	3.99
Craighead	4.10
Crawford	3.97
Crittenden	4.11
Cross	4.10
Dallas	4.01
Desha	4.05
Drew	4.03
Faulkner	4.01
Franklin	3.96
Fulton	4.00
Garland	3.97
Grant	3.98
Green	4.09
Hempstead	4.00
Hot Spring	3.98
Howard	3.98
Independence	4.02
Izard	3.98
Jackson	4.07
Jefferson	4.03
Johnson	3.96
Lafayette	4.02
Lawrence	4.07
Lee	4.10
Lincoln	4.04
Little River	4.00
Logan	3.96
Loncke	4.05
Madison	3.92
Marion	3.93
Miller	4.02
Mississippi	4.11
Monroe	4.09
Montgomery	3.96
Nevada	3.99
Newton	3.94
Ouachita	4.00
Perry	3.98
Phillips	4.10
Pike	3.96
Poinsett	4.10
Polk	3.97
Pope	3.97
Prairie	4.07
Pulaski	4.03
Randolph	4.06
St. Francis	4.10
Saline	3.96
Scott	3.97
Searcy	3.95
Sebastian	3.97
Sevier	3.98
Sharp	4.02
Stone	3.98
Union	4.01
Van Buren	4.00
Washington	3.93
White	4.05
Woodruff	4.08
Yell	3.98
Wght. State Avg.	4.07
CALIFORNIA	
Alameda	4.65
Amador	4.64
Butte	4.54
Calaveras	4.64
Colusa	4.58
Contra Costa	4.65
El Dorado	4.63
Fresno	4.57
Glenn	4.55
Humboldt	4.29
Imperial	4.60
Inyo	4.36
Kern	4.61
Kings	4.56
Lake	4.48
Lassen	4.33
Los Angeles	4.65
Madera	4.60
Marin	4.61
Mariposa	4.60
Mendocino	4.40
Merced	4.61
Modoc	4.32
Monterey	4.52
Napa	4.59
Orange	4.65
Placer	4.58
Plumas	4.40
Riverside	4.60
Sacramento	4.65
San Benito	4.56
San Bernardino	4.63
San Diego	4.65
San Francisco	4.65
San Joaquin	4.65
San Luis Obispo	4.49
San Mateo	4.64
Santa Barbara	4.52
Santa Clara	4.65
Santa Cruz	4.57
Shasta	4.35
Sierra	4.42
Siskiyou	4.31
Solano	4.64
Sonoma	4.60
Stanislaus	4.65
Sutter	4.58
Tehama	4.53
Tulare	4.55
Tuolumne	4.60
Ventura	4.62
Yolo	4.58
Yuba	4.57
Wght. State Avg.	4.58
COLORADO	
Baca	4.02
All other Counties	3.97
Wght. State Avg.	3.97
DELAWARE	
All Counties	4.11
FLORIDA	
All Counties	4.06
GEORGIA	
All Counties	4.11
IDAHO	
All Counties	3.84
ILLINOIS	
Alexander	4.10
Bond	4.02
Calhoun	3.98
Clay	4.02
Clinton	4.04
Edwards	4.04
Franklin	4.05
Gallatin	4.04
Hamilton	4.06
Hardin	4.07
Jackson	4.07
Jefferson	4.04
Jersey	3.98
Johnson	4.08
Lawrence	4.00
Madison	4.04
Marion	4.03
Massac	4.09
Monroe	4.04
Perry	4.05
Pope	4.08
Pulaski	4.10
Randolph	4.05
Richland	4.01
St. Clair	4.04
Saline	4.05
Union	4.09
Wabash	4.01
Washington	4.04
Wayne	4.04
White	4.04
Williamson	4.07
All other Counties	3.92
Wght. State Avg.	4.03
INDIANA	
All Counties	3.98
IOWA	
Adair	3.96
Adams	3.95

County	Rate per hundredweight
Appanoose	3.92
Audubon	3.94
Calhoun	3.89
Carroll	3.93
Cass	3.97
Clarke	3.93
Crawford	3.94
Decatur	3.94
Fremont	3.97
Greene	3.90
Guthrie	3.93
Harrison	3.96
Ida	3.91
Lucas	3.92
Madison	3.94
Marion	3.89
Mills	3.97
Monona	3.95
Monroe	3.90
Montgomery	3.97
Page	3.97
Pottawattamie	3.97
Ringgold	3.96
Sac	3.91
Shelby	3.95
Taylor	3.96
Union	3.94
Warren	3.92
Wayne	3.93
Woodbury	3.93
All other Counties	3.85
Wght. State Avg	3.92
KANSAS	
Allen	4.04
Anderson	4.05
Atchison	4.08
Barber	3.95
Barton	3.91
Bourbon	4.05
Brown	4.05
Butler	3.96
Chase	4.01
Chautauqua	4.00
Cherokee	4.03
Cheyenne	3.88
Clark	3.95
Clay	3.96
Cloud	3.95
Coffey	4.03
Comanche	3.95
Cowley	3.96
Crawford	4.04
Decatur	3.90
Dickinson	3.96
Doniphan	4.04
Douglas	4.06
Edwards	3.91
Elk	4.00
Ellis	3.91
Ellsworth	3.93
Finney	3.92
Ford	3.95
Franklin	4.07
Geary	4.00
Gove	3.91
Graham	3.91
Grant	3.92
Gray	3.94
Greeley	3.88
Greenwood	4.01
Hamilton	3.90
Harper	3.95
Harvey	3.95
Haskell	3.93
Hodgeman	3.93
Jackson	4.06
Jefferson	4.07
Jewell	3.93
Johnson	4.07
Kearny	3.90
Kingman	3.94
Kiowa	3.93
Labette	4.03
Lane	3.89
Leavenworth	4.08
Lincoln	3.94
Linn	4.07
Logan	3.89
Lyon	4.02
McPherson	3.95
Marion	3.96
Marshall	4.00
Meade	3.94
Miami	4.07
Mitchell	3.93
Montgomery	4.03
Morris	4.00
Morton	3.94
Nemaha	4.02
Neosho	4.04
Ness	3.90
Norton	3.91
Osage	4.04
Osborne	3.93
Ottawa	3.95
Pawnee	3.91
Phillips	3.91
Pottawatomie	4.02
Pratt	3.93
Rawlins	3.89
Reno	3.93
Republic	3.95
Rice	3.93
Riley	4.00
Rooks	3.93
Rush	3.91
Russell	3.91
Saline	3.95
Scott	3.89
Sedgwick	3.95
Seward	3.94
Shawnee	4.05
Sheridan	3.91
Sherman	3.88
Smith	3.92
Stafford	3.91
Stanton	3.92
Stevens	3.94
Sumner	3.95
Thomas	3.89
Trego	3.91
Wabaunsee	4.02
Wallace	3.88
Washington	3.96
Wichita	3.89
Wilson	4.03
Woodson	4.02
Wyandotte	4.08
Wght. State Avg	3.97
KENTUCKY	
All Counties	4.06
LOUISIANA	
All Counties	4.08
MARYLAND	
All Counties	4.11
MICHIGAN	
All Counties	3.93
MINNESOTA	
All Counties	3.88
MISSISSIPPI	
All Counties	4.06
MISSOURI	
Adair	3.90
Andrew	4.03
Atchison	3.95
Audrain	3.95
Barry	3.93
Barton	3.97
Bates	4.03
Benton	3.97
Bollinger	4.06
Boone	3.94
Buchanan	4.05
Butler	4.12
Caldwell	4.05
Callaway	3.93
Camden	3.96
Cape Girardeau	4.07
Carroll	4.04
Carter	4.06
Cass	4.05
Cedar	3.96
Chariton	4.00
Christian	3.94
Clark	3.95
Clay	4.07
Clinton	4.06
Cole	3.93
Cooper	3.97
Crawford	3.98
Dade	3.93
Dallas	3.98
Daviess	4.00
De Kalb	4.00
Dent	3.99
Douglas	3.99
Dunklin	4.15
Franklin	3.99
Gasconade	3.94
Gentry	3.98
Greene	3.93
Grundy	3.99
Harrison	3.95
Henry	4.01
Hickory	3.97
Holt	3.98
Howard	3.97
Howell	4.02
Iron	4.05
Jackson	4.07
Jasper	3.96
Jefferson	4.03
Johnson	4.03
Knox	3.89
Laclede	3.96
Lafayette	4.05
Lawrence	3.93
Lewis	3.87
Lincoln	3.97
Linn	3.97
Livingston	4.03
McDonald	3.93
Macon	3.94
Madison	4.06
Maries	3.94
Marion	3.89
Mercer	3.95
Miller	3.95
Mississippi	4.06
Moniteau	3.93
Monroe	3.94
Montgomery	3.96
Morgan	3.97
New Madrid	4.11
Newton	3.93
Nodaway	3.98
Oregon	4.05
Osage	3.94
Ozark	4.00
Pemiscot	4.18
Perry	4.05
Pettis	3.97
Phelps	3.94
Pike	3.94
Platte	4.07
Polk	3.94
Pulaski	3.94
Putnam	3.93
Ralls	3.90
Randolph	3.95
Ray	4.07
Reynolds	4.01
Ripley	4.11
St. Charles	3.99
St. Clair	3.99
St. Francois	4.03
Ste. Genevieve	4.04
St. Louis	4.03
Saline	4.01
Schuyler	3.87
Scotland	3.85
Scott	4.07
Shannon	4.01
Shelby	3.91
Stoddard	4.09
Stone	3.94
Sullivan	3.93
Taney	3.96
Texas	3.96
Vernon	4.00
Warren	3.98
Washington	4.02
Wayne	4.09
Webster	3.93
Worth	3.96
Wright	3.95
Wght. State Avg	4.02
NEBRASKA	
Antelope	3.92
Burt	3.95

County	Rate per hundredweight
Butler	3.94
Cass	3.96
Colfax	3.94
Cuming	3.94
Dodge	3.95
Douglas	3.96
Gage	3.96
Hall	3.91
Hamilton	3.92
Jefferson	3.93
Johnson	3.96
Lancaster	3.95
Madison	3.93
Merrick	3.91
Nemaha	3.97
Otoe	3.95
Pawnee	3.97
Pierce	3.93
Platte	3.93
Polk	3.93
Richardson	3.99
Saline	3.95
Sarpy	3.96
Saunders	3.95
Seward	3.95
Stanton	3.94
Thayer	3.91
Thurston	3.94
Washington	3.96
York	3.94
All other Counties	3.90
Wght. State Avg	3.93
NEVADA	
All Counties	4.00
NEW MEXICO	
Chaves	4.12
Curry	4.14
De Baca	4.11
Guadalupe	4.11
Harding	4.13
Hidalgo	4.17
Lea	4.14
Luna	4.17
Quay	4.14
Roosevelt	4.14
Union	4.10
All other Counties	4.09
Wght. State Avg	4.14
NORTH CAROLINA	
All Counties	4.11
NORTH DAKOTA	
All Counties	3.83
OHIO	
All Counties	3.98
OKLAHOMA	
Adair	4.11
Alfalfa	4.09
Atoka	4.19
Beaver	4.06
Beckham	4.15
Blaine	4.16
Bryan	4.19
Caddo	4.18
Canadian	4.17
Carter	4.19
Cherokee	4.16
Choctaw	4.19
Cimarron	4.06
Cleveland	4.19
Coal	4.19
Comanche	4.18
Cotton	4.18
Craig	4.09
Creek	4.17
Custer	4.16
Delaware	4.11
Dewey	4.10
Ellis	4.10
Garfield	4.12
Garvin	4.19
Grady	4.19
Grant	4.09
Greer	4.16
Harmon	4.15
Harper	4.06
Haskell	4.17
Hughes	4.18
Jackson	4.16
Jefferson	4.19
Johnston	4.19
Kay	4.09
Kingfisher	4.15
Kiowa	4.18
Latimer	4.18
Le Flore	4.17
Lincoln	4.18
Logan	4.15
Love	4.19
McClain	4.19
McCurtain	4.17
McIntosh	4.17
Major	4.10
Marshall	4.20
Mayes	4.11
Murray	4.19
Muskogee	4.17
Noble	4.13
Nowata	4.09
Okfuskee	4.17
Oklahoma	4.18
Okmulgee	4.17
Osage	4.11
Ottawa	4.09
Pawnee	4.14
Payne	4.15
Pittsburg	4.18
Pontotoc	4.19
Pottawatomie	4.18
Pushmataha	4.19
Roger Mills	4.11
Rogers	4.11
Seminole	4.18
Sequoyah	4.16
Stephens	4.19
Texas	4.06
Tillman	4.16
Tulsa	4.16
Wagoner	4.15
Washington	4.08
Washita	4.16
Woods	4.09
Woodward	4.08
Wght. State Avg	4.09
OREGON	
All Counties	3.99
PENNSYLVANIA	
All Counties	4.11
SOUTH CAROLINA	
All Counties	4.11
SOUTH DAKOTA	
Bon Homme	3.92
Clay	3.94
Hutchinson	3.91
Lincoln	3.93
Turner	3.91
Union	3.94
Yankton	3.94
All other Counties	3.90
Wght. State Avg	3.90
TENNESSEE	
Shelby	4.18
All other Counties	4.06
Wght. State Avg	4.06
TEXAS	
Anderson	4.26
Andrews	4.05
Angelina	4.31
Aransas	4.39
Archer	4.15
Armstrong	4.10
Atascosa	4.31
Austin	4.36
Bailey	4.09
Bandera	4.27
Bastrop	4.26
Baylor	4.15
Bee	4.36
Bell	4.23
Bexar	4.26
Blanco	4.27
Borden	4.07
Bosque	4.19
Bowie	4.16
Brazoria	4.39
Brazos	4.30
Brewster	3.98
Briscoe	4.11
Brooks	4.37
Brown	4.17
Burleson	4.28
Burnet	4.26
Caldwell	4.27
Calhoun	4.35
Callahan	4.15
Cameron	4.43
Camp	4.17
Carson	4.10
Cass	4.16
Castro	4.09
Chambers	4.43
Cherokee	4.23
Childress	4.13
Clay	4.17
Cochran	4.09
Coke	4.13
Coleman	4.16
Collin	4.19
Collingsworth	4.12
Colorado	4.33
Comal	4.26
Comanche	4.19
Concho	4.17
Cooke	4.19
Coryell	4.20
Cottle	4.13
Crane	4.05
Crockett	4.03
Crosby	4.11
Culberson	3.98
Dallam	4.05
Dallas	4.19
Dawson	4.07
Deaf Smith	4.09
Delta	4.18
Denton	4.19
De Witt	4.32
Dickens	4.14
Dimmit	4.20
Donley	4.10
Duval	4.34
Eastland	4.18
Ector	4.04
Edwards	4.17
Ellis	4.19
El Paso	3.96
Erath	4.19
Falls	4.25
Fannin	4.19
Fayette	4.28
Fisher	4.13
Floyd	4.11
Foard	4.13
Fort Bend	4.39
Franklin	4.17
Freestone	4.24
Frio	4.22
Gaines	4.08
Galveston	4.43
Garza	4.10
Gillespie	4.25
Glasscock	4.07
Goliad	4.38
Gonzales	4.28
Gray	4.10
Grayson	4.20
Gregg	4.16
Grimes	4.35
Guadalupe	4.26
Hale	4.09
Hall	4.11
Hamilton	4.19
Hansford	4.05
Hardeman	4.13
Hardin	4.43
Harris	4.43
Harrison	4.17
Hartley	4.05
Haskell	4.15
Hays	4.26
Hemphill	4.08
Henderson	4.22
Hidalgo	4.40
Hill	4.20
Hockley	4.09
Hood	4.19
Hopkins	4.18

County	Rate per hundredweight
Houston	4.31
Howard	4.07
Hudspeth	3.99
Hunt	4.19
Hutchinson	4.05
Irion	4.09
Jack	4.19
Jackson	4.31
Jasper	4.33
Jeff Davis	3.99
Jefferson	4.43
Jim Hogg	4.34
Jim Wells	4.40
Johnson	4.19
Jones	4.15
Karnes	4.36
Kaufman	4.19
Kendall	4.27
Kenedy	4.37
Kent	4.13
Kerr	4.26
Kimble	4.21
King	4.14
Kinney	4.19
Kleberg	4.40
Knox	4.15
Lamar	4.18
Lamb	4.09
Lampasas	4.21
La Salle	4.23
Lavaca	4.29
Lee	4.28
Leon	4.26
Liberty	4.39
Limestone	4.24
Lipscomb	4.05
Live Oak	4.36
Llano	4.23
Loving	4.04
Lubbock	4.09
Lynn	4.09
McCulloch	4.17
McLennan	4.23
McMullen	4.27
Madison	4.30
Marion	4.17
Martin	4.07
Mason	4.21
Matagorda	4.37
Maverick	4.13
Medina	4.25
Menard	4.17
Midland	4.06
Milam	4.27
Mills	4.19
Mitchell	4.10
Montague	4.19
Montgomery	4.40
Moore	4.05
Morris	4.17
Motley	4.13
Nacogdoches	4.24
Navarro	4.23
Newton	4.33
Nolan	4.13
Nueces	4.43
Ochiltree	4.05
Oldham	4.09
Orange	4.39
Palo Pinto	4.19
Panola	4.23
Parker	4.19
Parmer	4.09
Pecos	4.03
Polk	4.36
Potter	4.09
Presidio	3.98
Rains	4.18
Randall	4.09
Reagan	4.06
Real	4.24
Red River	4.17
Reeves	4.05
Refugio	4.40
Roberts	4.06
Robertson	4.26
Rockwall	4.19
Runnels	4.14
Rusk	4.20
Sabine	4.28
San Augustine	4.28
San Jacinto	4.34
San Patricio	4.43
San Saba	4.18
Schleicher	4.10
Scurry	4.10
Shackelford	4.16
Shelby	4.24
Sherman	4.05
Smith	4.20
Somervell	4.19
Starr	4.38
Stephens	4.18
Sterling	4.09
Stonewall	4.15
Sutton	4.15
Swisher	4.09
Tarrant	4.19
Taylor	4.15
Terrell	4.03
Terry	4.09
Throckmorton	4.16
Titus	4.17
Tom Green	4.13
Travis	4.26
Trinity	4.32
Tyler	4.33
Upshur	4.17
Upton	4.04
Uvalde	4.24
Val Verde	4.14
Van Zandt	4.18
Victoria	4.35
Walker	4.35
Waller	4.37
Ward	4.05
Washington	4.36
Webb	4.21
Wharton	4.35
Wheeler	4.11
Wichita	4.14
Wilbarger	4.14
Willacy	4.42
Williamson	4.26
Wilson	4.31
Winkler	4.04
Wise	4.19
Wood	4.18
Yoakum	4.09
Young	4.18
Zapata	4.33
Zavala	4.18
Wght. State Avg.	4.23
UTAH	
All Counties	3.97
VIRGINIA	
All Counties	4.11
WASHINGTON	
All Counties	3.99
WISCONSIN	
All Counties	3.88
WYOMING	
All Counties	3.89

(b) Schedule of discounts—apply per hundredweight.

	Cents per hundredweight
(1) Test weight (pounds):	
(i) 52.9 to 52.0	−.01
(ii) 51.9 to 51.0	−.02
(2) Total damaged kernels (percent):	
(i) 5.1 to 6.0	−.02
(ii) 6.1 to 7.0	−.04
(iii) 7.1 to 8.0	−.06
(iv) 8.1 to 9.0	−.08
(v) 9.1 to 10.0	−.10
(vi) 10.1 to 11.0	−.12
(vii) 11.1 to 12.0	−.14
(viii) 12.1 to 13.0	−.16
(ix) 13.1 to 14.0	−.18
(x) 14.1 to 15.0	−.20
(3) Heat damaged kernels (percent):	
(i) 0.51 to 1.00	−.02
(ii) 1.01 to 2.00	−.06
(iii) 2.01 to 3.00	−.10
(4) Broken kernels, foreign material and other grains (percent):	
(i) 8.1 to 9.0	−.02
(ii) 9.1 to 10.0	−.04
(iii) 10.1 to 11.0	−.06
(ev) 11.1 to 12.0	−.08
(v) 12.1 to 13.0	−.10
(vi) 13.1 to 14.0	−.12
(vii) 14.1 to 15.0	−.14
(5) Weed control law (where required by § 1421.24)	−.15

(6) Other factors. Sorghum grading sample is not eligible for loan. In the event quantities of sorghum grading U.S. sample grade are delivered in satisfaction of loan obligations, such quanties will be discounted on the basis of the schedule of discounts as provided by the Kansas City ASCS Commodity Office for settlement purposes. The schedule will also provide discounts for certain quality factors not specified above which affect the value of sorghum, e.g., weevily, weathered, stones, etc. such discounts will be established prior to loan maturity and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors, discounts and adjustments at county ASCS offices prior to their loan maturity date or as soon thereafter as practicable.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105A 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421))

Signed at Washington D.C., on September 3, 1981.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-26518 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-05-M

Foreign Agriculture Service

White or Irish Potato Production

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Estimate with respect to 1981 white or Irish potato production Headnote 2 of Subpart A of Part 8 Schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds for which duty at 37 cents per 100 pounds is provided by TSUS item 137.25 for the 12-month period beginning September 15.

The estimate of the Department of Agriculture, made as of September 1, 1981, is that for the calendar year 1981 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, D.C. this 9th day of September 1981.

[FR Doc. 81-26602 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-10-M

Forest Service

AMAX, Inc.; Proposed Molybdenum Mining and Milling Operation, Gunnison National Forest, Gunnison County, Colorado; Revised Notice of Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, is preparing an environmental impact statement for the AMAX Inc. Mt. Emmons Mining and Milling proposal pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and in accordance with regulations 40 CFR Parts 1500–1508.

On December 4, 1978, a Notice of Intent to Prepare an Environmental Impact Statement was published (43 FR 56669). A revised notice was published on June 1, 1979 to provide more specific information which had become available (44 FR 31687). The revised notice of intent estimated that a draft environmental impact statement would be filed in September 1980 and that the final environmental impact statement would be filed in February, 1981. A notice regarding environmental impact statement scoping meetings was published on December 12, 1979 (44 FR 71853). A revised schedule Notice was published on October 7, 1980 stating that the draft environmental impact statement was expected in July 1981 and the final environmental impact statement proposed for release in November 1981 (45 FR 68981).

This notice establishes revised dates for expected filing of the draft and final environmental impact statement. The draft environmental impact statement will be filed on approximately January 1, 1982 and the final environmental impact statement will be filed on approximately June 1, 1982.

The earlier Federal Register notices provided information on the nature of the proposed project, identified public issues, invited public participation in the environmental impact statement process, and indicated that more detailed information regarding the proposed project and related federal actions was available from the Forest Service. This information from the original Notices of Intent remains the same.

The Forest Service has received numerous professional reports and studies from AMAX and/or public agency consultants regarding all aspects of the project. AMAX has also submitted an Environmental Report on the project. These documents are available for inspection during business hours at the Forest Service offices at 216 N. Colorado, Gunnison, Colorado 81230.

D. W. Crawford,

Acting Forest Supervisor.

August 31, 1981.

[FR Doc. 81-26601 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Carney Creek Watershed, Okla.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

0Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricutural Center Building, Stillwater, Oklahoma 74074, telepone number (405) 624–4360.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Carney Creek Watershed project, Choctaw County, Oklahoma.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The action will involve the construction of one floodwater retarding structure.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R. Willis. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 31, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-26513 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-16-M

Indian Creek Subwatershed Project, Copiah Creek Watershed, Mississippi; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Billy C. Griffin, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone (601) 960–4335.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Indian Creek Subwatershed, Copiah Creek Watershed, Copiah County, Mississippi.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for land treatment and structural measures to reduce soil erosion and flooding. The planned works of improvement include the establishment of land treatment measures, construction of one floodwater retarding structure, 1.5 miles

of levee system, and 1.6 miles of channel work.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy C. Griffin. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 31, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-26513 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-16-M

Lake Hiawatha Recreation Area RC&D Measure, North Dakota; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, P.O. Box 1458, Bismarck, North Dakota 58502, telephone 701-255-4011, extension 421.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Hiawatha Recreation Area RC&D Measure, Wells County, North Dakota.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns the installation of one comfort station, two picnic shelters, two picnic tables, two trash racks, and two grills as parts of an existing water-based recreation facility on the shore of Lake Hiawatha, a part of Sykeston, North Dakota Community park.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. Michael Nethery. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State nd local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 31, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-26512 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-16-M

Maysville Laterals Watershed, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone number (405) 624-4360.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for channel work in the Maysville Laterals Watershed, Garvin County, Oklahoma.

The environmental assessment of the federally assisted action indicates that the project will not cause significant local, regional, or national impacts in the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The proposed action involves an increase in capacity for 3.5 miles of channel planned in combination with floodwater retarding structures to accomodate release flows from the floodwater retarding structures and reduce flooding on about 1,328 acres of flood plain. The stream involved is classified as intermittent and no wetlands or significant aquatic ecosystems will be affected.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R. Willis. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act, Public Law 78-534, 58 Stat. 905. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 31, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-26514 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-16-M

Oaklandon Elementary School Critical Area Treatment RC&D Measure, Indiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Eddleman, State Conservationist, Soil Conservation Service, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, telephone 317-269-6515.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil

Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oaklandon Elementary School Critical Area Treatment RC&D Measure, Marion County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert L. Eddleman, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include the regrading of 1.5 acres of playground, the replacement of topsoil, the construction of 600 feet in length of tile outlet terrace, 600 lineal feet of tile outlets, six acres of land smoothing, seedbed preparation, fertilizing, and seeding.

The Notice of a Finding of No Significance Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert Eddleman. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 31, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-26511 Filed 9-10-81; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

New York Advisory Committee; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:30 p.m. on September 28, 1981, at the Phelps Stokes Fund, 10 E. 87 St., New York, N.Y. The purpose of this meeting is to discuss the coming projects for the year.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Franklin H. Williams, Phelps Stokes Fund, 10 E. 87th Street, New York, NY 10028, 212-427-8100 or the Eastern Regional Office, 26 Federal Office Building, Room 1639, New York, NY 10007, 212-264-0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 4, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-26481 Filed 9-10-81; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 9:00 p.m., on October 21, 1981, at the Rhode Island State House, Room 313, State House, Providence RI. The purpose of this meeting is to plan this year's programs and to receive committee reports.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Miriam E. Satterfield, 54 Arbor Drive, Providence, RI 20908, 401/277-6920, or the New England Regional Office, 55 Summer Street, Boston, Massachusetts 02110, 617/223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 4, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-26479 Filed 9-10-81; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:30 p.m., on October 6, 1981, at the Holiday Inn, Sykes Avenue, Whiteriver Junction, VT 05001. The purpose of this meeting is to discuss the Franco-American report, the sexual harassment information kit and the kit on prejudice and stereotyping.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Philip H. Hoff, 192 College St., Hoff, Wilson & Po, Burlington, VT 05401 or the New England Regional Office, 55 Summer St., 8th Floor, Boston, Massachusetts 02110, 617/223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 4, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-26480 Filed 9-10-81; 8:45 am]

BILLING CODE 6335-01-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 services to be provided by and a commodity to be produced by workshops for the blind and other severely Handicapped.

EFFECTIVE DATE: September 11, 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 19, 1981, July 17, 1981, and July 2, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices 46 FR 32062, 46 FR 37069, and 46 FR 34620) of proposed additions to Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the services and commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services and commodity are hereby added to Procurement List 1981:

SIC 7349

Janitorial Service, OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois

SIC 9199

Administrative Services (Includes mail room operations, mail distribution operations, and related recording, reporting, training, and advisory services)
Environmental Protection Agency at the following locations:
Waterside Mall Complex, Washington, D.C.
Marfair Building, Washington, D.C.
Crystal Mall Complex, Arlington, Virginia
Beltsville Research Laboratory, Beltsville, Maryland
9100 Brookville Road, Silver Spring, Maryland
6100 Executive Boulevard, Rockville, Maryland

Class 3990

Pallet, Wood, 3990-00-NSH-0005 (24" x 20"), (Requirements for New Cumberland Army Depot, Pennsylvania only)

C. W. Fletcher,

Executive Director.

[FR Doc. 81-26548 Filed 9-10-81; 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 commodities produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 11, 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 July 2, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 33069 and 46 FR 34620) 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 commodities 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 commodities are hereby deleted from Procurement List 1981:

Class 6230

Light, Desk, 6230-00-643-2077

Class 7930

Wax, Floor, 7930-00-205-2870 (GSA Regions W, 1, 2, 3, 5, 10), 7930-00-141-5888 (GSA Regions W, 1, 2, 3, 5, 10),7930-00-205-2871 (GSA Regions W, 1, 2, 3, 5, 10)

C. W. Fletcher,

Executive Director.

[FR Doc. 81-26547 Filed 9-10-81; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1981 a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 14, 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 addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1981, November 12, 1980 (45 FR 74836):

SIC 7349

Custodial Service (Including lawn maintenance, pool cleaning, and snow removal), Gerald R. Ford Museum, 303 Pearl Street, Grand Rapids, Michigan

C. W. Fletcher,

Executive Director.

[FR Doc. 81-26549 Filed 9-10-81; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Defense Communications Agency

Privacy Act of 1974; Deletions of Systems of Records Notices

AGENCY: Defense Communications Agency, Defense.

ACTION: Deletions of four systems of records notices.

SUMMARY: The Defense Communications Agency proposes to delete the notices for four systems of records subject to the Privacy Act of 1974. The systems are no longer being maintained.

DATE: This action is effective immediately.

ADDRESSES: Mr. John T. Whealen, General Counsel, Defense Communications Agency; Washington, D.C. 20305. Telephone: 202/692-2009.

FOR FURTHER INFORMATION CONTACT: Defense Communications Agency; Washington, D.C. 20305; telephone 202/692-2009.

SUPPLEMENTARY INFORMATION: The Defense Communications Agency systems of records notices inventory subject to the Privacy Act of 1974; Title 5, United States Code Section 552a (Pub. L. 93-579; 88 Stat 1896, *et seq)* have been published in the Federal Register at:

FR Doc. 79-37052 (44 FR 74443) December 19, 1979.

FR Doc. 81-897 (46 FR 6696) January 21, 1981.

September 4, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

Deletions

KSPT.02

System name:

Vehicle Parking Registration Card (44 FR 74457) December 17, 1979

Reason:

This system is no longer maintained.

K7090.08

System name:

1USAF Career Motivation Program (44 FR 74474) December 17, 1979

Reason:

This system is no longer maintained.

K890.02

System name:

Navy Officers Service Record (44 FR 74479) December 17, 1979

Reason:

This system is no longer maintained.

kdec.01

System name:

Vehicle Registration (44 FR 74445) December 17, 1979

Reason:

This system is no longer maintained.

[FR Doc. 81-26457 Filed 9-10-81; 8:45 am]

BILLING CODE 3810-01-M

Defense Nuclear Agency

Scientific Advisory Group on Effects (SAGE); Closed Meeting

NAME OF COMMITTEE: DNA Scientific Advisory Group on Effects (SAGE).

DATES: October 20–22, 1981.

PLACE: Kingman Building, Fort Belvoir, Virginia.

AGENDA: October 20 (0830–1700): Survivability of Aircraft and Cruise Missiles to Nuclear Weapon Effects (NWE); October 21 (0830–1700): Survivability of Land-Based Strategic Systems to NWE; October 22 (0830–1700): Hardening of Reentry Vehicles to NWE and Executive Session.

The presentations and discussions in the above cited agenda will focus on current and planned RDT&E programs sponsored by the Defense Nuclear Agency (DNA). Executive sessions will be held for the primary purpose of advising the Director, DNA, as to the adequacy of ongoing and planned programs. All planned presentations, discussions, and executive sessions will include classified defense information; therefore, under the provisions of Sections 552b(c)(1) and (3), Title 5, U.S.C., this meeting is closed to the public.

Any additional information concerning the meeting may be obtained from LTC Roger C. Andrews, USA, Scientific Secretary, SAGE, ATTN: DDST, Headquarter, Defense Nuclear Agency, Washington, DC 20305.

September 8, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 81-26612 Filed 9-10-81; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Privacy Act of 1974; Amendment to System of Records

AGENCY: Department of the Navy, Defense.

ACTION: Amendment of one system of records.

SUMMARY: The Department of the Navy proposes to amend the notice for one system of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed change to this system notice is set forth below followed by the notice as amended.

DATE: This action will be effective without further notice on October 13, 1981, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments should be addressed to the system manager identified in the systems notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350. Telephone 202/694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93–579, 88 Stat. 1896 *et seq.* has been published in the Federal Register at:)

FR Doc. 81–697 (46 FR 6696) January 21, 1981
FR Doc. 81–3277 (46 FR 9693) January 29, 1981
FR Doc. 81–10892 (46 FR 21226) April 9, 1981
FR Doc. 81–1360.3 (46 FR 25337) May 6, 1981
FR Doc. 81–14976 (46 FR 27370) May 19, 1981
FR Doc. 81–16065 (46 FR 28893) May 29, 1981
FR Doc. 81–17204 (46 FR 30680) June 10, 1981
FR Doc. 81–19041 (46 FR 33070) June 26, 1981
FR Doc. 81–20655 (46 FR 36730) July 15, 1981
FR Doc. 81–22903 (46 FR 40067) August 6, 1981
FR Doc. 81–23257 (46 FR 400557) August 10, 1981

This change does not require an altered system report as prescribed by 5 U.S.C. 552a(o).

September 4, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

Amendment

System name:

N00011 J010, Navy and Marine Corps Exchange and Commissary Sales Control and Security Files (46 FR 6699) January 21, 1981

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "Sales control and prevention and detection of abuse of privileges. Determine responsibility when there are violations of regulations or criminal statutes. Information may be provided to local, state, federal (including the Naval Investigative Service and the Federal Bureau of Investigation), or foreign organizations for further investigation or prosecution. Used by command legal personnel for prosecution of military offenses and other administrative action; provided to the Department of Justice in support of civil litigation; provided to officials of other federal agencies in connection with the performance of their official duties related to personnel administration."

N00011 J010

SYSTEM NAME:

Navy and Marine Corps Exchange and Commissary Sales Control and Security Files

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Sales control and prevention and detection of abuse of privileges. Determine responsibility when there are violations of regulations or criminal statutes. Information may be provided to local, state, federal (including the Naval Investigative Service and the Federal Bureau of Investigation), or foreign organizations for further investigation or prosecution. Used by command legal personnel for prosecution of military offenses and other administrative action; provided to the Department of Justice in support of civil litigation; provided to officials of other federal agencies in connection with the performance of their official duties related to personnel administration.

* * * * *

[FR Doc. 81-26458 Filed 9-10-81; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Bock & Bacon; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: August 19, 1981. Comments by: On or before October 13, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone: 214/767–7745.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone: 214/767–7745.

SUPPLEMENTARY INFORMATION: On August 19, 1981 the Office of Enforcement of the ERA executed a Consent Order with Bock & Bacon of Houston, Texas. Under 10 CFR 205.199J(b) a Consent Order which involves a sum of $500,000 or less in the aggregate excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Bock & Bacon wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE had determined that it is in the public interest to make the Consent Order with Bock & Bacon effective as of the date of its execution by the DOE and Bock & Bacon.

I. The Consent Order

Bock & Bacon is a firm engaged in the production of crude oil and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Bock & Bacon the Office of Enforcement, ERA, and Bock & Bacon entered into a Consent Order, the significant terms of which are as follows:

1. During the period September 1, 1973 through January 27, 1981, Bock & Bacon allegedly sold crude oil above the allowable prices specified in 10 CFR Part 212, Subpart D.

2. Bock & Bacon and the DOE have agreed to a settlement of $180,000. This amount will be refunded by Bock & Bacon on or before 90 days after publication of the Consent Order in the Federal Register. The negotiated settlement was determined to be in the public interest as well as the best interest of the DOE and Bock & Bacon.

3. This Consent Order constitutes neither an admission by Bock & Bacon that ERA regulations have been violated nor a finding by the ERA that Bock & Bacon had violated ERA regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Bock & Bacon agrees to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $180,000 in the manner specified in I.2. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. The funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification of the ERA at this time is requested primarily for the purpose of identifying valid claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide writtten notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation "Comments on the Bock & Bacon Consent Order". We will consider all comments we received by 4:30 p.m., local time, October 13, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 28th day of August 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-25500 Filed 9-10-81; 8:45 am]

BILLING CODE 6450-01-M

Cobra Oil & Gas Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: August 25, 1981. Comments by: On or before October 13, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone: 214/767–7745.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone: 214/767–7745.

SUPPLEMENTARY INFORMATION: On August 25, 1981 the Office of Enforcement of the ERA executed a Consent Order with Cobra Oil & Gas

Corporation of Wichita Falls, Texas. Under 10 CFR 205.199J(b) a Consent Order which involves a sum of $500,000 or less in the aggregate excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Cobra wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Cobra effective as of the date of its execution by the DOE and Cobra.

I. The Consent Order

Cobra Oil & Gas Corporation (Cobra) is a firm engaged in the production of crude oil and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Cobra the Office of Enforcement, ERA, and Cobra entered into a Consent Order, the significant terms of which are as follows:

1. During the period September 1, 1973 through June 30, 1980, Cobra allegedly sold crude oil above the allowable prices specified at 10 CFR Part 212, Subpart D.

2. Cobra and the DOE have agreed to a settlement of $30,000, including interest, plus compromised civil penalties in the amount of $1,700. This amount will be refunded by Cobra within 30 days of the effective date of the Consent Order. The negotiated settlement was determined to be in the public interest as well as the best interest of the DOE and Cobra.

3. This Consent Order constitutes neither an admission by Cobra that ERA regulations have been violated nor a finding by the ERA that Cobra has violated ERA regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Cobra agrees to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $30,000 in the manner specified in I.2. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. The funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all of a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification of the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation "Comments on the Cobra Oil & Gas Corporation Consent Order". We will consider all comments we received by 4:30 p.m., local time (30 days after publication). You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 28th day of August 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-26561 Filed 9-10-81; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between the United States and Japan

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of 300 grams of normal uranium metal to the Power Reactor and Nuclear Fuel Development Corporation, Japan for use as standard reference material.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S-JA-299 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 28, 1981.

Dated: September 8, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-26524 Filed 9-10-81; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements Between the United States and the European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the

European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the following sales:

Contract Number S-EU-696, 350 milligrams of uranium-236 to be used for production of the nuclide uranium-237 for gamma-gamma angular correlation research by the Interuniversitair Reactor Institut, the Netherlands.

Contract Number S-EU-697, 100 milligrams of thorium-230, to be used as an isotopic tracer in mass spectrometry, in France.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than September 28, 1981.

Dated: September 8, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Programs.

[FR Doc. 81-26523 Filed 9-10-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-1932-6]

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities (A-104), Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISS) 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 31, 1981 to September 4, 1981.

REVIEW PERIODS: The 45-day review period for draft EISS' listed in this notice is calculated from September 11, 1981 and will end on October 26, 1981. The 30-day review period for final EISS; as calculated from September 11, 1981 will end on October 13, 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 8, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities (A-104).

Department of Agriculture

FS: Draft—Blackbird Cobalt-Copper Mine, Salmon National Forest, Lemhi County, Idaho; the review period for this EIS has been extended until November 10, 1981 (EIS Order #810719)

FS: Draft—Land and Resource Management Plan, Eastern Region; the review period for this EIS has been extended until December 15, 1981 (EIS Order #810725)

SCS: Final—Washington Mountain Brook Watershed, Berkshire County, Massachusetts (EIS Order #810711)

Army Corps of Engineers

Draft Supplement—Onaga Lake, Vermillion Creek, Pottawatamie County, Kansas; the review period for this EIS has been extended until November 1, 1981 (EIS Order #810714)

Final—Baltimore Harbor Channels, Virginia Capes to Fort McHenry, Maryland and Virginia (EIS Order #810724)

Final—Flood Control, Shore Erosion Control and Navigation, Smith Island, Maryland and Virginia (EIS Order #810726)

Department of Housing and Urban Development

Draft—Summitwood Planned Community, Meriden, New Hanover and Hartford Counties, Connecticut (EIS Order #810715)

Final—Windmill Meadows and Lynn Creek Estates, Tarrant County, Texas (EIS Order #810712)

Final—Development of Ardenwood Village, Freemont, Alameda County, California (EIS Order #810713)

Final—Montclair Planned Residential Community, Prince William County, Virginia (EIS Order #810732)

104 H: Final—Deep River School Waterline Project, Lee County, North Carolina (EIS Order #810723)

Extension: Draft Supplement—Maumelle New Community, Pulaski County, Arkansas—published Federal Register July 31, 1981—the review period for this EIS has been extended until October 26, 1981 to allow consideration and review of a newly circulated addendum (EIS Order #810584)

Environmental Protection Agency

EPA 2: Final—Tri Municipal Sewer Area Wastewater Treatment Facilities, Dutchess County, New York (EIS Order #810721)

EPA 3: Draft—Holly Grove Coal Company, NPDES Permit, Little Kanawha/Burnsville Dam Area, Upshur County, West Virginia (EIS Order #810720)

EPA 3: Final—Wastewater Treatment Facilities, Town of Ashland and Hanover County, Virginia (EIS Order #810717)

EPA 4: Draft—Wastewater Facilities, Sewanee Area, Franklin County, Tennessee (EIS Order #810716)

EPA 4: Draft—Wastewater Facilities, City of Tampa and Central Hillsborough County, Florida (EIS Order #810731)

Department of Transportation

FHWA: Draft—Relocation of US 22, Steubenville Bypass, Jefferson County, Ohio (EIS Order #810718)

FHWA: Draft—Juan Tabo Extension, Wagon Train Drive to Central Avenue, Albuquerque, Bernalillo County, New Mexico; the review period for this EIS has been extended until October 30, 1981 (EIS Order #810722)

UMTA: Final—Washington Metrorail System, Anacostia Segment, Green Line (F) Route, Washington, DC (F-1) (EIS Order #810730)

Report: FHWA—Preliminary Final EIS/Draft 4(f) Evaluation for I-287 from US 202 in Montville, New Jersey to the New York Thruway in Suffern, New York (EIS Order #810733)

Nuclear Regulatory Commission

Final—Enrico Fermi Atomic Power Plant, Unit No 2, Detroit Edison Company, Monroe County, Michigan (EIS Order #810727)

Great Lakes Basin Commission

Final—Great Lakes Basin Wetlands Policy Plan (EIS Order #810728)

Final—Great Lakes Basin Coastal Hazards Plan (EIS Order #810729)

[FR Doc. 81-26569 Filed 9-10-81; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-1932-5]

Intent To Prepare an Environmental Impact Statement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent To Prepare an Environmental Impact Statement (EIS).

PURPOSE: In accordance with Section 102(2)(C) of the National Environmental Policy Act, EPA has identified a need to prepare and EIS and therefore, issues this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Thomas F. Lorenz, Environmental Review Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106, Telephone: (Commerical) 816/374–2921, (FTS) 758–2921.

SUMMARY: The cities of Osage Beach and Lake Ozark, Missouri have been awarded Step I grants under Section 201 of the Clean Water Act (P.L. 95–217) for the preparation of facility plans for wastewater collection and treatment facilities. Since these facility plans may propose a joint-owned regional facility, the study area for the EIS is defined as the City of Osage Beach, the City of Lake Ozark, the Village of Lakeside on the south side of Bagnell Dam, Horseshoe Bend and the unincorporated portion of Turkey Bend. The 201 grants included are Osage Beach project No. C290908–2 and Lake Ozark project No. C290799–01. Any additional 201 grants in the study area would also be included in the EIS. The EPA action to be evaluated in the EIS would be the approval of facility plans and the issuance of grant funds pursuant to Section 201 of the Clean Water Act for the design and construction of wastewater collection and treatment facilities in the study area. Copies of a more detailed Notice of Intent are available from the project officer identified above.

Scoping

The first public meeting will be conducted by EPA Region VII, to identify significant environmental issues and determine the scope of the draft EIS. The public scoping meeting is scheduled for 7:00 pm on October 6, 1981 at The School of the Osage High School in Lake Ozark, Missouri. Public notice will be given prior to all subsequent meetings.

Timing

EPA estimates the draft EIS will be available for public review and comment around March 1983. All interested parties are encouraged to submit their name and address to the person indicated above for inclusion on the distribution list to receive the draft EIS and related public notices.

Dated: September 3, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities (A–104).

[FR Doc. 81–26600 Filed 9–10–81; 8:45 am]

BILLING CODE 6560–37–M

[OPTS–51313; TSH–FRL 1932–1]

Acrylate-Methacrylate Copolymer; Premanufacture Notice

AGENCY: Environmental Protection Agency.

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 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 one PMN and provides a summary.

DATE: Written comments by: PMN 81–413, October 25, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS–51313]" 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.
81–413	Rose Allison	202–426–8615	E–222

Mail address of notice manager: Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the PMN received by EPA:

PMN 81–413

Close of Review Period. November 24, 1981.

Manufacturer's Identity. S. C. Johnson and Son, Inc., 1525 Howe Street, Racine, WI 53403.

Specific Chemical Identity. Acrylate-methacrylate copolymer.

Use. The manufacturer states that the PMN substance will be used as a printing ink.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	100,000	200,000
2d year	300,000	500,000
3d year	60,000	1,000,000

Physical/Chemical Properties

Boiling point—Over 200° F.
Solubility in water—Complete.
Specific gravity—1.05.
Appearance—Milky emulsion.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 4 workers may experience exposure 6 hrs/day, 100 days/yr. Exposure may occur during the charging of the polymer reactor, drum filling, tank wagon filling, the formulation of inks, and cleaning printing equipment.

Environmental Release/Disposal. The manufacturer estimates from <10–1,000 kg/yr may be released to air, land, and water. Minor vapor release is expected as a by-product of the filling. The reactor is rinsed with tap water which is flushed to the sewer. Sewer water is acidified and the sludge is sent to landfill.

Dated: September 3, 1981.

Denise F. Swink,

Acting Director for Management Support Division.

[FR Doc. 81–26525 Filed 9–10–81; 8:45 am]

BILLING CODE 6560–31–M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 81–617—81–620; File Nos. BPCT–800430KI, etc.]

Dayton Telecasting, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 28, 1981.

Released: September 3, 1981.

In regarding to applications of Dayton Telecasting, Inc., Dayton, Ohio, BC Docket No. 81–617, File No. BPCT–800430KI; Channel 45, Inc. & Oppenheimer & Co. d.b.a. Channel 45 Company, Dayton, Ohio, BC Docket No. 81–618, File No. BPCT–800718KE; Sinder Broadcasting of Ohio, Inc., Dayton, Ohio, BC Docket No. 81–619, File No. BPCT–800718KE; Freedom Broadcasting Corporation, Dayton, Ohio, BC Docket No. 81–620, File No. BPCT–800721KE; for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a

new commercial television broadcast station on Channel 45, Dayton, Ohio.[1]

2. All applicants propose to operate from sites located within 250 miles of the Canadian border with maximum visual effective radiated power of more than 1000 kilowatts. The proposals pose no interference threat to United States television stations; however, they contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes,* T.I.A.S. 2594 (1952). In the event of a grant of any application, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1000 kilowatts, absent Canadian consent. *South Bend Tribune,* 8 R.R. 2d 416 (1966).

3. *Dayton Telecasting, Inc. (DTI).* Commission Rule 73.1125 requires the main studio of a television station to be located in the principal community to be served or that good cause be shown for locating the studio outside this community. DTI proposes to locate the studio outside the city limits of Dayton, at its proposed transmitter site. DTI states that the proposed location is easily accessible to the residents of Dayton and that use of a combined studio transmitter location will permit applicant to realize a significant savings in construction and operation costs. In light of these circumstances, it appears that adequate justification has been provided for the proposed studio location.

4. *Channel 45 Company (Channel 45).* Applicant indicates that it will require $2,161,000 to construct its proposed facility and operate for three months, itemized as follows:

Equipment	$1,407,000
Land and building	250,000
Legal costs	60,000
Engineering costs	5,000
Operating costs (3 months)	439,000
Total	2,161,000

To meet these expenses, applicant relies on $565,000 in contributions from its limited partner, Oppenheimer and Company (OPCO), a $500,000 loan from Oppenheimer Holdings, Inc. (OPHI) and an equipment lease.

5. According to the partnership agreement submitted by the applicant, OPCO is to contribute $65,000 to Channel 45 when called for by the general partner and an additional $500,000 after the FCC grants the license application.[2] Since OPCO has not submitted a balance sheet, (see Section III, item 4, FCC Form 301) we cannot determine if OPCO has $565,000 to meet its commitment. Channel 45 also relies upon a $500,000 loan to be provided by OPHI, a subsidiary of OPCO. It is unclear whether the loan will be made directly to the applicant or to OPCO, who will then give the funds to the applicant. At any rate, OPHI has not submitted a current balance sheet (dated within 90 days of the filing of the application), so we are unable to determine if OPHI has the funds to meet its commitment. Applicant further proposes to rely on a lease for its technical equipment [3] from OPCO. OPCO has not indicated that it is regularly engaged in the selling or leasing of broadcast equipment. Since OPCO has not specified that it has the equipment on hand or shown the availability of funds to purchase it, applicant cannot rely on the lease as part of its financial plan. Therefore, we must assume that Channel 45 must pay cash for its equipment. Accordingly, financial issues will be specified to determine if the applicant has $2,161,000 available to construct and operate as proposed.

6. *Sinder Broadcasting of Ohio, Inc. (Sinder).* Sinder estimates that $613,000 plus the cost of its technical equipment will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$2,223,425
Land	51,500
Building	28,000
Legal costs	50,000
Engineering costs	4,000
Installation costs	100,000
Miscellaneous costs	50,000
Operating costs (3 months)	329,500

7. The costs of technical equipment cannot be determined because Sinder indicates, in FCC Form 301, Section III, page 1, that equipment will cost $2,223,425, but in its narrative financial plan, the equipment is said to cost $2,373,425. Sinder has submitted a deferred credit letter from G.E. which offers deferred credit of up to $2,500,000, with a down payment of 10% and monthly installments for 10 years. The amount of the down payment and five monthly installments will depend upon the correct figure for equipment. An issue will be specified therefore, to determine the cost of equipment, the amount of the downpayment required, and the amount of five monthly installments.

8. To meet these expenses, Sinder intends to rely on existing capital of $500, a net loan of $943,780 and deferred credit of $2,031,716. The letter from G.E., dated June 23, 1980, states that funding must take place by December 1, 1980. Since the credit term has expired, the letter may not be accepted as part of Sinder's financial plan. Therefore, we must assume that the applicant will pay cash for its equipment. Accordingly financial issues will be specified to determine whether applicant has funds, over and above $944,280, to construct and operate its proposed facility.

9. *Freedom Broadcasting Corporation FBC).* FBC estimates that it will require $646,572 to construct the proposed facility and operate for three months, itemized as follows:

Equipment (lease)	$81,572
Land (includes tower costs)	350,000
Building	50,000
Legal costs	5,000
Engineering and installation costs	20,000
Operating costs (3 months)	135,000
Total	646,572

10. To meet these expenses, applicant relies upon a net bank loan of $361,875, stock subscription for $100,000 and $195,000 in receipts from subscription television (STV) operations. The letter from Provident Bank states the loan is dependent on whether "collateral acceptable to the bank could be pledged." The bank letter asks for a response from FBC by August 31, 1980. No response from the applicant had been filed. Further, Section III, Item 4(b) of FCC Form 301 requires each person who has agreed to furnish funds, purchase stock, extend credit or guarantee loans to submit a balance sheet or a detailed financial statement showing ability to comply with the terms of the agreements. We do not have this information for stock subscribers Vate E. Jackson, Pearl L. Babson, Charles E. Taylor, Dr. Adegible and Jessie O. Gooding. Therefore, the availability of their combined commitments for $35,000 has not been shown. Accordingly, applicant may rely on only $65,000 in stock subscriptions. Finally, applicant proposes to rely on $195,000 in STV revenues; however, no STV application has been filed. Therefore, FBC's reliance upon $195,000 in STV revenues to demonstrate its financial qualifications is misplaced.

[1] On December 15, 1980, Dayton Telecasting, Inc. filed an amendment to update the business and financial interest of the principals of the corporation. Sinder Broadcasting of Ohio, Inc. filed a motion to dismiss the amendment on December 31, 1980. However, the information filed by DTI is required by § 1.65 of the Commission's rules.

[2] By license, we assume that the applicant means a construction permit.

[3] Applicant proposes to lease tower space from University Regional Broadcasting (WPTD–TV). The tower is presently under construction. In view of the fact that Channel 45's application is being designated for comparative hearing, we may assume that the tower construction will be completed prior to completion of the hearing.

Accordingly, financial issues will be specified to determine the availability of an additional $581,572 to construct its proposed station.

11. Broadcast Management Corporation (BMC), 50% owner of FBC, through wholly owned subsidiaries, owns WCNW(AM), Fairfield, Ohio. WCNW's community of license is within the Grade A Contour of FBC's proposed facility in Dayton. Section 73.636(a)(1) of the Commission's rules sets out a policy against granting a television construction permit to parties who directly or indirectly own, operate or control one or more AM broadcast stations and the grant of such license will result in the Grade A contour of the proposed station encompassing the entire community of license of one of the AM broadcast stations. BMC states that it will dispose of station WCNW(AM) if FBC is granted a construction permit for the proposed Dayton facility. BMC must demonstrate that it has severed all interest in or connection with station WCNW before FBC commences operation.

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Channel 45 Company:

(a) Whether, it has $2,161,000 available to construct and operate;

(b) Whether, in light of the evidence adduced pursuant to issue (a), applicant is financially qualified.

2. To determine with respect to Sinder Broadcasting of Ohio, Inc:

(a) The costs of its technical equipment and the amount of the downpayment plus five monthly installment payments;

(b) Whether it has additional funds over $944,280 available to construct and operate;

(c) Whether, in light of the evidence adduced pursuant to the issues (a) and (b), applicant is financially qualified.

3. To determine with respect to Freedom Broadcasting Corporation:

(a) Whether it has the additional $581,572 available to meet its estimated construction and operational expenses;

(b) Whether, in light of the evidence adduced pursuant to issue (b), applicant is financially qualified.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, that in the event of a grant of DTI's application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1000 kW after October 1, 1982 is subject to a further extension of consent by Canada.

15. It is further ordered, that in the event of a grant of Channel 45's application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1000 kW after March 2, 1983 is subject to a further extension of consent by Canada.

16. It is further ordered, that in the event of a grant of Sinder's or FBC's application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1000 kW after December 1, 1982 is subject to a further extension of consent by Canada.

17. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

18. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-26527 Filed 9-10-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-621—81-626; File Nos. BPCT-790821KE, etc.]

United Broadcasting Corporation of Louisiana, et al; Designating Applications For Consolidated Hearing on Stated Issues

Adopted: August 28, 1981.

Released: September 8, 1981.

In re applications of United Broadcasting Corporation of Louisiana, New Orleans, Louisiana, BC Docket No. 81-621, File No. BPCT-790821KF; Oak Television of New Orleans, Inc., New Orleans, Louisiana, BC Docket No. 81-622, File No. BPCT-800109KF; Delta Media, Ltd., New Orleans, Louisiana, BC Docket No. 81-623, File No. BPCT-800721KL; Cypress Broadcasting Limited, Partnership, New Orleans, Louisiana, BC Docket No. 81-624, File No. BPCT-800721KM; National Group Telecommunications, Inc., New Orleans, Louisiana, BC Docket No. 81-625, File No. BPCT-800721KN; Comark Television, Inc., New Orleans, Louisiana, BC Docket No. 81-626, File No. BPCT-800721KO; for a television construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of United Broadcasting Corporation of Louisiana (United), Oak Television of New Orleans, Inc. (Oak), Delta Media, Ltd. (Delta), Cypress Broadcasting Limited Partnership (Cypress), National Group Telecommunications, Inc. (National), and Comark Television, Inc. (Comark) for a new commercial television station to operate on Channel 38, New Orleans, Louisiana.[1]

2. Section 73.685(a) of the Commission's rules requires that a UHF television station place an 80 dBu signal over the entire principal community to be served; however, United's, Delta's, National's and Comark's proposed facilities would not provide such coverage to New Orleans. Accordingly, appropriate issues will be specified.

3. Since we have not received determinations from the Federal Aviation Administration that United's, Oak's, Delta's, and Cypress' proposed

[1] The applications of United and Oak contemplate operating subscription television (STV) over their proposed facilities. Their applications for STV authorization (BSTV-790821KG and BSTV-800109KG, respectively) will not be consolidated for hearing in this proceeding. This is in keeping with the Commission's policy in regard to mutually exclusive applications for a new television station where some contemplate STV operation and the others a conventional facility. *Second Report and Order in Docket 21502*, FCC 81-13 (released March 25, 1981).

tower heights and locations would not constitute hazards to air navigation, issues regarding this matter are required.

United Broadcasting Corporation of Louisiana

4. United estimates that $1,034,561 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment:	
Down payment	$324,750
3 months	82,811
Land lease (5 months)	17,500
Building	37,500
Legal, engineering, installation and other miscellaneous costs	160,000
Operating costs (3 months)	412,000
Total	1,034,561

To meet these expenses, United intends to rely on $1000 in existing capital and a $3,000,000 line of credit from United Cable Television Corporation (UCTC), which proposes to provide 80% of United's funding requirements. UCTC's line of credit is unacceptable for several reasons. First, it does not comply with FCC Form 301, Section III, Question 4, in that it does not indicate the rate of interest to be charged, terms of repayment, and security required, if any. Second, the line of credit is contingent on the grant of STV authorization to United and on a "local group" [2] providing the other 20%. At this point, United cannot depend on its STV application being granted (see Footnote 1), and none of the members in the "local group" has demonstrated the availability of any net liquid assets. Finally, United Stated has not shown that UCTC otherwise has the net liquid assets to provide its proposed line of credit. Consequently, we are able to determine the availability of only $1000 to United, and an appropriate financial issue will be specified.

Oak Television of New Orleans, Inc.

5. Oak estimates that $1,263,084 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment: [1]	
Down payment	$711,750
3 months	188,834
Land	lease
Building	60,000
Legal, engineering, and other miscellaneous costs	110,000
Operating costs (3 months)	194,500
Total	1,263,084

[1] Although, under its terms, the RCA letter extending deferred credit for the purchase of equipment expired on January 7, 1981, it is reasonable to assume that the applicant would still be able to obtain the same or similar credit arrangement from RCA or another equipment supplier, should it receive a grant in this proceeding. *Contemporary Television Broadcasting, Inc.*, Mimeo No. 05812 (FCC, released Jan. 16, 1981).

To meet this requirement, Oak intends to rely on $25,000,000 and $35,000,000 lines of credit to Oak Industries from The First National Bank of Chicago and the Continental Illinois National Bank and Trust Company of Chicago, respectively. At no place in its application does Oak set out the cost of the land lease; however, in view of the fact that approximately $35,000,000 appears to be available,[3] Oak would appear to have sufficient funds to meet the cost of a land lease. Accordingly, we will not specify a financial issue.

6. In the event of a grant of Oak's application, the construction permit will be conditioned to require Oak to demonstrate that its tower will not alter the radiation pattern of nearby Station WTIX(AM).

Delta Media, Ltd.

7. Delta estimates that $280,024 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment rental (3 months)	$51,459
Studio and transmitter site rental (5 months)	17,915
Studio construction	50,000
Legal, engineering, installation, pre-operation, and other miscellaneous costs	26,500
Operating costs (3 months)	134,250
Total	280,024

8. To meet these expenses, Delta intends to rely on $20,000 in existing capital, $75,000 in stock subscriptions, and $200,000 from the sale of program time to a proposed STV franchisee. The availability of any funds from a franchisee is conjectural, since Delta has not even filed an application for STV authorization. With regard to the subscription agreements, John and Gladys DeRussy's balance sheets were out of date upon the filing of the application, Byron Unkauf's and William Ransom's balance sheets were undated, and August Weber submitted no balance sheet. Consequently, we cannot determine whether they have the net liquid assets to meet the total $75,000 subscription. Since Delta has demonstrated the availability of only $20,000, an appropriate financial issue will be specified.

9. In the event of a grant of Delta's application, the construction permit will be conditioned to require Delta to demonstrate that its tower will not alter the radiation pattern of Station WNNR(AM).

Cypress Broadcasting Limited Partnership

10. Cypress estimates that $3,430,000 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment	$2,768,000
Land	(1)
Building	40,000
Legal, engineering, and installation costs	141,000
Operating cost (3 months)	481,000
Total	3,430,000

[1] Lease.

The applicant does not indicate the costs it will incur in leasing a tower site. Accordingly, an appropriate financial issue will be specified.

11. To meet its expenses, Cypress intends to rely on $55,897 in existing capital, $5,000 contributions from each of eight Class A Limited Partners and from Cypress Broadcasting Corporation (a General Partner) (CBC), $2,000,000 from unspecified Class B Limited Partners, and a bank loan for $2,000,000 (net $1,883,334) from an unspecified bank. The applicant has not submitted CBC's contribution agreement, and none of the proposed contributors has demonstrated the availability of any net liquid assets. Further, the applicant cannot rely on funds from unspecified Class B Limited Partners or from an unspecified bank. Consequently, we can determine the availability of only $55,897 to Cypress, and an appropriate financial issue will be specified.

12. In the event of a grant of Cypress' application, the construction permit will be conditioned to require Cypress to demonstrate that its tower will not alter the radiation pattern of Station WTIX(AM).

National Group Telecommunications, Inc.

13. National estimates that $1,069,564 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment rental (3 months)	$157,144
Legal, engineering, installation, and miscellaneous expenses (including 2 month pre-operation studio and tower site leases)	486,500
Operating costs (3 months)	425,920
Total	1,069,564

The applicant does not indicate the costs of leasing a studio and tower site

[1] The "local group" consists of Jack M. Weiss, George W. Lowenbaum, Paul M. Haygood, William J. Jefferson, E. Douglas Johnson, Jr., Edgar Bright, Jr., and J. Timothy Rice.

[3] Oak Industries has approximately $65,000,000 available either in net liquid assets or from letters of credit; however, approximately $30,000,000 of that is committed to other television or subscription television ventures.

during the first three months of operation. Accordingly, an appropriate financial issue will be specified.

14. To meet its expenses, National intends to rely on $3,269 in existing capital and a $1,200,000 loan from Louis J. Kearn. Kearn's balance sheet does not demonstrate the availability of any net liquid assets. Further, Kearn's loan is contingent on N. John Douglas and John M. Rohrbach, Jr. personally guaranteering the loan; National states that Douglas and Rohrbach have agreed to guarantee the loan, but neither has submitted such a signed agreement. Consequently, we can determine the availability of only $3,269 to National, and an appropriate financial issue will be specified.

15. In the event of a grant of National's application, the construction permit will be conditioned to require National to demonstrate that its tower will not alter the radiation patterns of Stations WNNR(AM) and WWIW(AM).

Comark Television, Inc.[4]

16. Comark estimates that $715,214 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment by deferred credit: downpayment	$137,926
3 months	38,838
Equipment by cash	279,900
Land	30,000
Building	30,000
Studio rent (5 months)	6,250
Legal, Engineering and other miscellaneous costs	12,500
Operating costs (3 months)	180,000
Total	715,214

Comark has not provided for the three months interest on the equipment purchased by deferred credit, and an appropriate issue will be specified.

17. To meet this requirement, Comark intends to rely on a $1,250,000 (net $1,152,232) loan from the Old Colony Bank, Holyoke, Massachusetts, and $100,000 in stock subscriptions from Richard Fiore, David Smith, and LeRoy Wallace. The bank letter is conditioned on Comark's principals and investors guaranteering the loan, but none have agreed to do so. With regard to the stock subscriptions, although Fiore, Smith and Wallace have submitted financial statements, they were outdated upon the filing of Comark's application; none show the availability of any net liquid assets. Further, it appears that Comark relies on the same stock subscriptions in its Daytona Beach, Portland, and Syracuse applications. Consequently, we are unable to determine the availability of any funds to Comark, and an appropriate financial issue will be specified.

18. Comark specifies maximum visual effective radiated power (ERP) of 513 kW, but its calculated maximum by the data submitted is 4570 kW. Similarly, the applicant specifies maximum aural ERP of 51.3 kW, but its calculated maximum by the data submitted is 457 kW. Consequently, Comark will be required to submit the correct figures within 20 days of the mailing of this Order.

Conclusion and Order

19. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

20. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to United Broadcasting Corporation of Louisiana:

(a) Whether United will encompass New Orleans with a city grade signal of 80 dBu, as required by Section 73.685 of the Commission's Rules and, if not, whether circumstances exist which would warrant waiver of the rule;

(b) Whether there is a reasonable possibility that the tower height and location proposed by United would constitute a hazard to air navigation and, if so, whether the applicant is qualified;

(c) Whether the applicant has an additional $1,033,561 available for its construction and three month operating costs;

(d) Whether, in light of the evidence adduced pursuant to (c) above, the applicant is financially qualified to construct and operate as proposed.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Oak Television of New Orleans, Inc. would constitute a hazard to air navigation and, if so, whether the applicant is qualified.

3. To determine, with respect to Delta Media, Ltd.:

(a) Whether Delta will encompass New Orleans with a city grade signal of 80 dBu, as required by Section 73.685 of the Commission's Rules and, if not, whether circumstances exist which would warrant waiver of the rule;

(b) Whether there is a reasonable possibility that the tower height and location proposed by Delta would constitute a hazard to air navigation and, if so, whether the applicant is qualified;

(c) Whether the applicant has an additional $260,024 available for its construction and three month operating costs;

(d) Whether, in light of the evidence adduced pursuant to (c) above, the applicant is financially qualified to construct and operate as proposed.

4. To determine, with respect to Cypress Broadcasting Limited Partnership:

(a) Whether there is a reasonable possibility that the tower height and location proposed by Cypress would constitute a hazard to air navigation and, if so, whether the applicant is qualified;

(b) The cost of leasing a tower site for five months;

(c) Whether the applicant has available an additional $3,374,103 plus the cost of leasing a tower site;

(d) Whether, in light of the evidence adduced pursuant to (b)–(c) above, the applicant is financially qualified to construct and operate as proposed.

5. To determine, with respect to National Group Telecommunications, Inc.:

(a) Whether National will encompass New Orleans with a city grade signal of 80 dBu, as required by § 73.685 of the Commission's Rules and, if not, whether

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[4] Comark has also applied for television stations to operate on:

Channel 26, Daytona Beach, Florida (BPCT-791214KE)

Channel 18, San Juan, Puerto Rico (BPCT-801112KH)

Channel 51, Portland, Maine (BPCT-800721KH)

Channel 62, Syracuse, New York (BPCT-800521KN)

In addition, David Smith, who is Secretary-Treasurer, Director, and 33% owner of Comark, is the 4.8% owner of Commercial Radio Institute, Inc., which has interest in:

WPTT-TV, Pittsburgh, Pennsylvania

WBFF-TV, Baltimore, Maryland

Channel 28, Columbus, Ohio (grantee) (BPCT-4925)

Channel 38, St. Petersburg, Florida (applicant) (BPCT-790130LI)

Channel 59, Indianapolis, Indiana (applicant) (BPCT-781221LE)

Channel 61, Wilmington, Delaware (applicant) (BPCT-801001KI)

Channel 61, Hartford, Connecticut (applicant) (BPCT-790419KE)

Section 73.636(a)(2) of the Commission's rules limits a party to direct or indirect interest in no more than seven television stations.

circumstances exist which would warrant waiver of the rule;

(b) The cost of leasing a tower site and studio space for three months;

(c) Whether the applicant has available and additional $1,066,295 plus the cost of leasing a tower site and studio space for three months;

(d) Whether, in light of the evidence adduced pursuant to (b)–(c) above, the applicant is financially qualified to construct and operate as proposed.

6. To determine, with respect to Comark Television, Inc.:

(a) Whether Comark will encompass New Orleans with a city grade signal of 80 dBu, as required by § 73.685 of the Commission's rules and, if not whether circumstances exist which would warrant waiver of the rule;

(b) The payment to interest for three months to the applicant's equipment suppliers;

(c) Whether the applicant has available $715,214 plus the payment to interest for three months to its equipment suppliers;

(d) Whether, in light of the evidence adduced pursuant to (b)–(c) above, the applicant is financially qualified to construct and operate as proposed.

7. To determine which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

21. It is further ordered, that within 20 days of the mailing of this Order, Comark shall submit the correct figures for its maximum visual ERP and its maximum aural ERP.

22. It is further ordered, that in the event of a grant of Oak's application, the construction permit shall contain the following condition:

In connection with its proposed alteration of the WDSU-TV tower, Permittee shall be responsible for restoring the previous effectiveness and for modifying, if necessary or desirable, the existing detuning apparatus and associated monitoring system, so that the tower will not cause adverse effect upon the radiation patterns of WTIX, and Permittee shall also be responsible for the continued maintenance of such detuning apparatus and monitoring system. Both prior to and subsequent to the alteration, a partial proof of performance, as defined in § 73.154(a) of the Commission's rules, shall be conducted for both non-directional test and directional operations to establish that the WTIX arrays have not been adversely affected. The results shall be submitted to the Commission and to WTIX before limited program tests are commenced.

23. It is further ordered, that, in the event of a grant of Delta's application, the construction permit shall contain the following condition:

Prior to construction of the TV tower authorized herein, permittee shall notify AM station WNNR so that that station may determine operating power by the indirect method. Permittee shall be responsible for the installation and continue maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the aforementioned AM station. Subsequent to construction of the TV tower and installation of all appurtenances thereon, antenna impedance measurements of the AM antenna shall be made and sufficient field strength measurements, obtained at least 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional, and the results shall be submitted to the Commission in conjunction with an application for the AM station to return to the direct method of power determination. Thereafter, the TV station may commence limited program tests.

24. It is further ordered, that, in the event of a grant of Cypress' application, the construction permit shall contain the following condition:

During installation of the TV antenna, AM Station WTIX shall determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point values within authorized limits. Upon completion of the installation, common point impedance measurements of the AM array shall be made and a partial proof of performance, as defined by § 73.154(a) of the Commission's rules, shall be conducted to establish that the AM array has not been adversely affected. The results shall be submitted to the Commission along with a tower sketch of the installation in an application for Station WTIX to return to the direct method of power determination. Thereafter, the TV station may commence limited program tests.

25. It is further ordered, that, in the event of a grant of National's application, the construction permit shall contain the following condition:

During installation of the TV antenna, AM Station WNNR shall determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point values within authorized limits. Upon completion of the installation, common point impedance measurements of the AM array shall be made and a partial proof of performance, as defined by § 73.154(a) of the Commission's rules, shall be conducted to establish that the AM array has not been adversely affected. The results shall be submitted to the Commission along with a tower sketch of the installation in an application for Station WNNR to return to the direct method of power determination. Thereafter, the TV station may commence limited program tests.

Prior to construction of the TV tower authorized herein, the permittee shall notify AM Station WWIW, so that that station may determine operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation patterns of WWIW. Subsequent to the construction of the TV tower and installation of all appurtenances thereon, antenna impedance measurements of the AM antenna shall be made and sufficient field strength measurements, obtained at at least 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. The results shall be submitted to the Commission in an application for Station WWIW to return to the direct method of power determination. Thereafter, the TV station may commence limited program tests.

26. It is further ordered, that the Federal Aviation Administration is made a party respondent with respect to Issues 1, 2, 3, and 4 above.

27. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein and the party respondent shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

28. It is further ordered, that the applicants herein shall, pursuant to § 311(a)(2) of the Communication Act and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-26528 Filed 9-10-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 81-600; File No. 22105-CD-P-(1)-80]

R.C.S., Inc.; Designating Application for Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: August 26, 1981.

Released: August 28, 1981.

By the Common Carrier Bureau.

In the matter of R.C.S., Inc. for a construction permit for an additional channel on frequency 454.125 MHz for

Station KMD689 in the Domestic Public Land Mobile Radio Service near San Luis Obispo, Calif.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, is the above-referenced application of R.C.S., Inc. (RCS). Our review of the RCS application has raised a question concerning whether the applicant has demonstrated a need for an additional frequency. We find RCS to be otherwise qualified.

2. RCS has submitted a traffic loading study pursuant to § 22.516 of the Rules in an attempt to demonstrate need for the additional two-way frequency it requests. However, the loading study submitted does not demonstrate sufficient traffic to justify an additional frequency. RCS present has 2 VHF and 4 UHF frequencies. The application is requesting an additional UHF frequency. The traffic loading study shows an average peak hour usage of only 34 minutes for the VHF frequencies and 12 minutes for the UHF frequencies. This results in a 41 percent blocking for the VHF frequencies and a 1 percent blocking for UHF frequencies. As a result, we will designate an issue as to whether the applicant has demonstrated a need for an additional frequency.

3. Accordingly, it is order, that the above-referenced application of R.C.S., Inc., File No. 22105-CD-P-(1)-80 is designated for hearing, pursuant to section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine whether the applicant has demonstrated a sufficient public need for the proposed facility; and

(b) To determine, in light of evidence adduced pursuant to the foregoing issues, what disposition of the referenced application would best serve the public interest, convenience and necessity.

4. It is further order, that the hearing be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

5. It is further order, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

6. It is further order, that the applicant may avail itself 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.

7. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Dated: September 8, 1981.

Sheldon M. Guttmann,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-26567 Filed 9-10-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 81-508, 81-509; File Nos. 3644-CM-P-80, 5847-CM-P-80]

Satellite Vision Broadcasting Co. and Microband Corporation of America; Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: July 31, 1981.

Released: August 13, 1981.

By the Common Carrier Bureau:

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 in Alexandria, Louisiana. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There applications have been amended as result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the bove-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Satellite Vision Broadcasting Company, Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 81-26569 Filed 9-10-81; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 81-612]

Floyd F. Smith; Designating Application for Hearing on Stated Issues

Designation Order

Adopted: August 27, 1981.

Released: August 28, 1981.

The Chief, Private Radio Bureau, has under consideration the application of Floyd F. Smith, 4225 West Nichols Avenue, Sacramento, California 95820, for a Citizens Band Radio station license. The application is dated January 19, 1981.[1]

1. Information before the Commission indicates that on August 1, 1980, Smith's radio station made radio transmissions which were apparently in violation of the following CB Rules: 17(a) (operation on unauthorized frequency: 26.810 MHz, assigned for use of United States Government radio stations); 19(a) (non type-accepted transmitter) and/or 30(a)

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[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband to Tymshare. *See* Application for Transfer of Control *Memorandum Opinion, Order and Authorization*, File Nos. 11-76-CM-TC-(69)-80 (released December 24, 1980).

[2] By Memorandum Opinion and Order adopted June 28, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[1] Smith previously was the licensee of CB radio station KZB-7123, the license for which expired on December 19, 1980. Since Smith's application for renewal of that license was not filed on time, it will be treated as an application for a new license.

(no station identification).[2] The CB Rules are found in § 95.401 of the Commission's Rules.

2. These apparent violations call into question Smith's qualifications to become a licensee in the Citizens Band Radio Service.[3] The Commission is thus precluded from determining that a grant of Smith's application would serve the public interest, convenience and necessity.

3. Accordingly, it is ordered, pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's rules, that Smith's application for a Citizens Band Radio station license is designated for hearing on the issues specified below:

(a) To determine whether Floyd F. Smith's station made radio transmissions on August 1, 1980, in willful violation of CB Rules 17(a), 19(a) and/or 30(a).

(b) To determine whether Floyd F. Smith has the requisite qualifications to become a Commission licensee.

(c) To determine whether a grant of the application of Floyd F. Smith for a station license in the Citizens Band radio service would serve the public interest, convenience and necessity.

4. It is further ordered, That, if Smith desires to be heard on the application, he must file within 20 days a written appearance, in triplicate, stating that he will appear at a hearing to present evidence on the issues specified above.[4] [5] If a hearing is requested, the time, place and Presiding Judge will be specified by subsequent order.

5. It is further ordered, That copies of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the applicant at his address of record (shown in the caption).

Chief, Private Radio Bureau.

W. Riley Hollingsworth,

Assistant Chief, Compliance Division.

[FR Doc. 81-26568 Filed 9-10-81; 8:45 am]

BILLING CODE 6712-01-M

[2] The August 1, 1980, operation was the subject of an Official Notice of Violation mailed to Smith on September 9, 1980.

[3] CB Rule 27 provides that the licensee is responsible for all transmissions made under authority of his license.

[4] Absent a showing of good cause, if a written appearance is not filed within the specified time period, the application will be dismissed with prejudice for failure to prosecute pursuant to § 1.221 of the Commission's Rules.

[5] The enclosed forms should be used to enter your appearance. One copy should be mailed, in the envelope provided, to the Chief Administrative Law Judge and the other, in the envelope provided, to the Federal Communications Commission, Washington, D.C. 20554.

FEDERAL LABOR RELATIONS AUTHORITY

Professional Air Traffic Controllers Organization; Oral Argument; Meeting

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of meeting..

SUMMARY: This notice sets forth the agenda and purpose of a forthcoming meeting of the Federal Labor Relations Authority.

DATE: Wednesday, September 16, 1981, 9:30 a.m.

ADDRESS: Courtroom 20, United States Court House, Constitution Avenue and John Marshall Place, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jerome P. Hardiman, Director, Office of Operations and Technical Assistance, Federal Labor Relations Authority, 1900 E Street, NW., Washington, D.C. 20424, (202) 254-7362.

SUPPLEMENTARY INFORMATION: The Authority, pursuant to § 2429.6 of its rules and regulations (5 CFR 2429.6), has granted a motion filed by the Professional Air Traffic Controllers Organization (PATCO), requested that the Authority afford it an opportunity to present oral argument before the Members of the Authority in an unfair labor practice case, *Professional Air Traffic Controllers Organizaton, Affiliated with MEBA, AFL-CIO and Federal Aviation Administration/ Department of Transportation,* Case No. 3-CO-105. The case concerns an allegation that PATCO called for and participated in a strike or work stoppage at numerous Federal Aviation Administration (FAA) facilities throughout the United States, and that it failed to take action to prevent or stop such action, in violation of section 7116(b)(7) (A) and (B) of the Federal Service Labor-Management Relations Statute (5 U.S.C. 7116(b)(7) (A) and (B)).

The meeting is for the sole purpose of hearing oral argument by the participants designated by the Authority on the issues raised in the case.

Dated: Washington, D.C., September 10, 1981.

For the Authority.

James J. Shepard,

Executive Director.

[FR Doc. 81-26730 Filed 9-10-81; 12:14 pm]

BILLING CODE 6727-01-M

FEDERAL RESERVE SYSTEM

Allied Bancshares, Inc.; Acquistion of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 USC 1842(a)(3)) to acquire 100 percent of the voting shares, less director's qualifying shares, of Interstate Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 USC 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of The Board.

[FR Doc. 81-26504 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Allied Bancshares, Inc.; Proposed Acquisition of Interservice Life Insurance Company

Allied Bancshares, Inc., Houston, Texas, has applied, pursuant to section (4)(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Interservice Life Insurance Company, Pasadena, Texas.

Applicant states that the proposed subsidiary would engage in the activity of underwriting credit life, accident and health insurance directly related to extensions of credit by Applicant's subsidiaries. These activities would be performed from offices of Applicant's subsidiary in Pasadena, Texas and the geographic areas to be served are the areas surrounding Pasadena and Houston, Texas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

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 interests, or unsounding banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than October 5, 1981.

Board of Governors of the Federal Reserve System, September, 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26595 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Bancorp of Huntingdon, Inc.; Formation of Bank Holding Company

Bancorp of Huntingdon, Inc., Huntingdon, Tennessee, 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 per cent or more of the voting shares of Bank of Huntingdon, Huntingdon, Tennessee. 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 October 5, 1981. Any comment on an applicaton 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26592 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

CVB Financial Corp.; Formation of Bank Holding Company

CVB Financial Corp.; Chino, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 USC 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Chino Valley Bank, Chino, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 USC 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 1, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26593 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Emory Bancshares, Inc. Formation of Bank Holding Company

Emory Bancshares, Inc., Emory, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 USC 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares, less directors' qualifying shares, of The First National Bank of Emory, Emory, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 USC 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 30, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26589 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Liberty Bancorporation, Inc.; Formation of Bank Holding Company

Liberty Bancorporation, Inc., Powders Lake, North Dakota, 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 96 per cent of the voting shares of Liberty State Bank, Burke County, Powers Lake, North Dakota. 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 Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26590 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Security New York State Corp.; Acquisition of Bank

Security New York State Corporation, Rochester, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The Mohawk National Bank of Schenectady, Schenectady, New York. 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 New

York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26586 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Service Bancshares, Ltd.; Formation of Bank Holding Company

Service Bancshares, Limited, Tonkawa, Oklahoma, 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 Service Bancorporation, Inc., Tonkawa, Oklahoma and thereby indirectly acquiring 80 per cent of the voting shares of The Service Bank of Tonkawa, Tonkawa, Oklahoma. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26588 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Syracuse Financial Co.; Formation of Bank Holding Company

Syracuse Financial Company, Syracuse, Kansas, 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 68.09 percent or more of the voting shares of the First National Bank of Syracuse, Syracuse, Kansas. 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)).

Syracuse Financial Company has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activity of acting as agent for the sale of hail and other types of insurance directly related to its agricultural lending business. These activities would be performed from offices of Applicant's subsidiary in Syracuse, Kansas, and the geographic area to be served is Hamilton County, Kansas. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interesterd 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 interests, or unsound banking practices."

Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than October 5, 1981.

Board of Governors of the Federal Reserve System, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26591 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Tri City Bankshares Corp.; Acquisition of Bank

Tri City Bankshares Corporation, Oak Creek, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 21.37 per cent or more of the voting shares of First National Bank of Eagle River, Eagle River, Wisconsin. 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 30, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26587 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Illinois Center Bancorporation, Inc.; Formation of Bank Holding Company

Correction

In FR Doc. 81-25343, appearing at page 43744 in the issue for Monday, August 31, 1981, the name of the bank as given in the heading and also in the first line of the text is incorrect. The correct name of the bank is "Illinois Center Bancorporation, Inc.".

BILLING CODE 1505-01-M

Brookhollow Bancshares, Inc.; Formation of Bank Holding Company

Brookhollow Bancshares, Inc., Dallas, Texas, 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 90.56 percent or more of the voting shares of Brookhollow National Bank, Dallas, Texas. 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 Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26509 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Gaylord Bancshares, Inc.; Formation of Bank Holding Company

Gaylord Bancshares, Inc., Gaylord, Kansas, 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 80.1 percent or more of the voting shares of First National Bank of Gaylord, Gaylord, Kansas. 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 October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26504 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Grimes County Capital Corp.; Formation of Bank Holding Company

Grimes County Capital Corporation, Iola, Texas, 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, less directors' qualifying shares, of Iola State Bank, Iola, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26505 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Grygla Bancshares, Inc.; Formation of Bank Holding Company

Grygla Bancshares, Inc., Grygla, 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 acquireing 93 percent or more of the voting shares of American State Bank of Grygla, 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 Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26506 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Overton Bancshares, Inc.; Formation of Bank Holding Company

Overton Bancshares, Inc., Fort Worth, Texas, 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 Overton Park National Bank, Fort Worth, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26503 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Plaza Commerce Bancorp; Formation of Bank Holding Company

Plaza Commerce Bancorp, San Jose, California, 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 Plaza Bank of Commerce, San Jose, California. 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 San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26509 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancorp, Inc.; Formation of Bank Holding Company

Southern Bancorp, Inc., Waycross, Georgia, 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 per cent of the voting shares of The Southern Bank, Waycross, Georgia. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26507 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Warren Bancshares, Inc.; Formation of Bank Holding Company

Warren Bancshares, Inc., Warren 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 91.0 per cent or more of the voting shares of Peoples State Bank of Warren, Warren, 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 Reserve Bank, to be received not later than October 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice is 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26502 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Wilshire Bancshares, Inc.; Formation of Bank Holding Company

Wilshire Bancshares, Inc., Oklahoma City, Oklahoma, 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 per cent or more of the voting shares of Wilshire Bank, Oklahoma City, Oklahoma. 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 October 1, 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, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26510 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

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 comment 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, except as noted, received by the appropriate Federal Reserve Bank not later than September 28, 1981.

A. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Plateau Bancshares, Inc., Crossville, Tennessee, (insurance activities; Tennessee): to engage, through its subsidiary, Tri-County Insurance Comapny, Inc., in the sale of credit life insurance and credit accident and health insurance, which is directly related to extensions of credit by a bank or a bank related firm. These activities would be conducted from an office at Crossville, Tennessee, serving the county in which the insurance office is located and those portions of contiguous counties in Tennessee within a 75 mile radius of the office.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

The Marine Corporation, Milwaukee, Wisconsin (trust company activities; Wisconsin): to engage, through its subsidiary, The Marine Trust Company, N.A., in trust company activities as permitted by Wis. Stat. § 223.07 and 12 CFR 225.4(a)(4). These activities would be conducted from offices located at Applicant's subsidiary bank, Burlington Marine Bank, Burlington, Wisconsin, serving western Racine County, western Kenosha County, and Walworth County, Wisconsin. Comments on this application must be rceived not later than September 25, 1981.

C. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

International Bancshares Corp., Laredo, Texas (insurance activities; Texas, Mexico): to engage through its subsidiary, IBC Life Insurance Co., in the sale and reinsurance of credit life, accident, and health insurance. These activities would be conducted from an office of Applicant's subsidiary in Laredo, Texas, and would serve Laredo, the surrounding area in Texas and, to a limited extent, Nuevo Laredo, Mexico.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 4, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26501 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

Guaranty Capital Corp.; Formation of Bank Holding Company

Guaranty Capital Corporation, Belzoni, Mississippi, 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 at least 80 percent of the voting shares of Guaranty Bank and Trust Company, Belzoni, Mississippi. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 5, 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, September 3, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-26532 Filed 9-10-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Dover Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dover Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of the Tipper Tie Division of City Investing Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Dover. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 15, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-26598 Filed 9-10-81; 8:45 am]

BILLING CODE 6750-01-M

E. I. du Pont de Nemours & Co.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: E. I. du Pont de Nemours & Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Monsanto Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 14, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-26597 Filed 9-10-81; 8:45 am]

BILLING CODE 6750-01-M

Seagram Co. Ltd.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: The Seagram Co. Ltd. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of E.I. du Pont de Nemours. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 14, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade

Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7(A)(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-26586 Filed 9-10-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Editorial Group To Review Proposed Biosafety Guidelines for Microbiological and Biomedical Laboratories; Open Meeting

On September 16, 1981, the Centers for Disease Control will convene an open meeting of an editorial group to review the proposed changes in content and format of the draft manual, "Proposed Biosafety Guidelines for Microbiological and Biomedical Laboratories." The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 8:30 a.m., in room SSB–19, Building 3, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

Additional information may be obtained from: John H. Richardson, D.V.M., Director, Office of Biosafety, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephone, FTS: 236–3883, Commercial: 404/329–3883.

Dated: September 4, 1981.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 81-26611 Filed 9-10-81; 8:45 am]

BILLING CODE 4110-86-M

Food and Drug Administration

Pennwalt Corp.; Ammonium Chloride, Feed Grade; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) providing for the use of ammonium chloride, feed grade. The sponsor, Pennwalt Corp., has requested the withdrawal.

EFFECTIVE DATE: September 21, 1981.

FOR FURTHER INFORMATION CONTACT: David Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Pennwalt Corp., P.O. Box 1297, Takoma, WA 98401, is the sponsor of NADA 40–978 which provides for the use of Sal Ammoniac (ammonium chloride, feed grade) for use in ruminant feed to reduce the incidence of urinary calculi in cattle and sheep. The application was originally approved on August 21, 1970. The sponsor has requested by letter dated January 22, 1981, that approval of the NADA be withdrawn because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(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)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 40–978 and all supplements thereto for Sal Ammoniac (ammonium chloride, feed grade) is hereby withdrawn effective September 21, 1981.

In a separate document published elsewhere in this issue of the Federal Register, § 558.45 *Ammonium chloride, feed grade* is amended to remove that portion that reflects approval of this NADA.

Dated: September 1, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-26326 Filed 9-10-81; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

National Professional Standards Review Council; Cancellation of Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I) announcement is made that the September 14–15 meeting of the National Professional Standards Review Council is cancelled.

The next scheduled meeting will be held on November 16–17, 1981. Notice of that meeting will be published 30 days prior to the meeting date.

All communications regarding the Council should be addressed to Cleo E. Hancock, Jr., Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 4520, Health and Human Services Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245–6097.

Cleo E. Hancock, Jr.,

National Professional Standards Review Council.

[FR Doc. 81-26639 Filed 9-10-81; 8:45 am]

BILLING CODE 4115-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Announcement of Vacancy; Osage Education Committee

August 24, 1981.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Paragraph (e)5, Committee vacancies, of 25 CFR 112a.5, Establishment of Osage Tribal Education Committee, states that any vacancies shall be filled in the same manner described by this section for the selection of committee members. The period of time for receiving applications shall not exceed 30 days with the expiration date to be announced by the Assistant Secretary. The Assistant Secretary may appoint an individual to serve for a temporary period of time until the vacancy is filled. However, such an appointment shall not exceed 45 days.

This notice announces that a vacancy has occurred on the Osage Education Committee. The purpose of this announcement is to solicit nominations from individuals or from Osage organizations in behalf of nominees for the vacancy. The vacancy represents the unexpired portion (approximately three years) of a four year term for the Pawhuska Village Area, therefore

nominees must meet the requirement of residing within a 20 mile radius of Pawhuska Village. Other requirements state that the nominee must be an adult person of Osage Indian blood, who is an allottee, or a descendant of an allottee. The nominee or his representative organization should submit a brief statement requesting that he/she be considered a candidate for the vacancy and the reason for desiring to serve on the committee. If nominated by an Osage organization, a written statement from the nominee stating his/her willingness to serve on the committee, must be included with the Osage organization nomination.

Applications and nominations shall be made on or before October 13, 1981, and shall be mailed to: Assistant Secretary—Indian Affairs, Attention: Director, Office of Indian Education Programs, Code 500, 18th & C Streets, N.W., Washington, D.C. 20240.

Kenneth L. Payton,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 81-26609 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-02-M

Leech Lake Reservation, Chippewa Indians of Minnesota; Plan for the Use of the 20-percent Program Funds of the Leech Lake Reservation Group Share of Judgment Funds in Dockets 18-C and 18-T, Before the Indian Claims Commission

August 24, 1981.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

A plan for the use of certain judgment funds of the Leech Lake Reservation group of the Mississippi and Lake Superior Bands of Chippewa Indians, pursuant to the provisions of the Act of October 19, 1973, 87 Stat. 466, became effective on February 1, 1979. Under the plan, twenty (20%) percent of the group's share of the Mississippi and Lake Superior funds awarded in Dockets 18-C and 18-T were set aside for the program aspect of the plan to be developed at a later date. A plan for the use of the program funds of the Leech Lake Reservation group was submitted to the Congress by a letter dated May 1, 1981, and was received (as recorded in the Congressional Record) by the Senate on May 12, 1981, and House of Representatives on May 13, 1981. The program plan became effective on June 21, 1981, since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The program aspect of the plan of the Leech Lake Reservation group, pursuant to the Act of October 19, 1973, 87 Stat. 466, which became effective February 1, 1979, provide that the twenty (20) percent program portion of the respective group's share of the judgment funds awarded to the Mississippi and Lake Superior Chippewa Bands in Dockets Nos. 18-C and 18-T shall be programmed as follows:

The twenty percent (20%) program portion of the funds, including interest and investment income accrued of the groups named in section 5 of this plan shall be deposited in separate accounts and shall be invested by the Secretary under 25 U.S.C. 162a until such time as a further plan for the use of the program funds is approved by the Secretary. The Secretary shall approve no plan for the use of the program funds of the respective groups until at least thirty days after the plan has been submitted to the Congress. The Reservation Business Committees of the Minnesota Chippewa Tribe and their respective band members represented on the reservations shall develop program plans, which may include a joint investment and use program of the funds for the bands represented on a reservation.

In accordance with Resolution No. 81-116, adopted on November 19, 1980, by the Leech Lake Reservation Business Committee, the twenty (20) percent program funds and the interest and investment income accrued, shall be apportioned and utilized in a Reservation Business Capitalization Program as follows:

	Percent
A. Capital investment to assist reservation—owned enterprise(s) in expansion development	33⅓
B. Loan fund to assist the existing tribally owned businesses on a day to day basis	33⅓
C. Loan guarantee funds to support tribally owned business conventional loan packages and bonding programs	33⅓
Total	100

There shall be established three separate program accounts apportioned in the percentages above, including the interest and investment income accrued. The funds shall continue to be invested by the Secretary [of the Interior] (hereinafter "Secretary"), pursuant to 25 U.S.C. 162a, until such time as specific plans for the use of the program funds and tribal budgets are developed by [the] Leech Lake Reservation Business Committee, which shall be subject to approval by the Secretary. Should funds of a program account be in excess of needs, adjustments between program accounts may be made in tribal budgets developed by the governing body."

Kenneth L. Payton,

Acting Deputy Assistant Secretary-Indian Affairs.

[FR Doc. 81-26610 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[F-14895-A]

Alaska Native Claims Selection

On November 22, 1974, Nima Corporation for the Native village of Mekoryuk, filed selection application F-14895-A, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Mekoryuk, including lands within the Nunivak National Wildlife Refuge (Executive Order 5095, dated April 15, 1929 and Executive Order 5470, dated October 22, 1930).

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn from the National Wildlife Refuge System.

This decision approves approximately 62,067 acres of National Wildlife Refuge lands for conveyance to Nima Corporation. This acreage does not exceed the 69,120 acres permitted under Sec. 12(a)(1).

Nima Corporation in its November 22, 1974 application excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. Section 12(a) and 43 CFR 2651.4(b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. For these reasons, the water bodies which were improperly excluded in the November 22, 1974 application are considered selected by Nima Corporation.

As to the lands described below, the application submitted by Nima Corporation is properly filed and meets

the requirements of the Alaska Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 103,660 acres, is considered proper for acquisition by Nima Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Lands Outside Nunivak National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 2 N., R. 81 W.
Secs. 10 to 16, inclusive;
Sec. 17, excluding Native allotment F-14173 Parcel B;
Secs. 18 to 21, inclusive;
Secs. 28 to 33, inclusive.
Containing approximately 11,406 acres.

T. 1 N., R. 82 W.
Secs. 1 to 22, inclusive.
Containing approximately 14,053 acres.

T. 2 N., R. 82 W.
Secs. 1, 2, and 3;
Secs. 4, 5, 8, and 9 (fractional);
Secs. 10 to 14, inclusive;
Secs. 15, 16, 17, and 22 (fractional);
Secs. 23 to 26, inclusive;
Secs. 27, 28, 29, and 31 (fractional);
Secs. 32 to 36, inclusive.
Containing approximately 15,189 acres.

T. 1 N., R. 83 W.
Sec. 1.
Containing approximately 640 acres.

T. 2 N., R. 83 W.
Sec. 36 (fractional).
Containing approximately 305 acres.
Aggregating approximately 41,593 acres outside Nunivak National Wildlife Refuge.

Lands Within Nunivak National Wildlife Refuge (E.O.'s 5095 and 5470)

Seward Meridian, Alaska (Unsurveyed)

T. 1 N., R. 95 W.
Sec. 1 (fractional);
Secs. 2, 3, 10, and 11;
Secs. 12, 13, and 14 (fractional);
Secs. 15 and 22;
Secs. 23, 25, and 26 (fractional);
Secs. 27, 34, and 35;
Sec. 36 (fractional).
Containing approximately 9,590 acres.

T. 2 N., R. 95 W.
Sec. 1 (fractional);
Secs. 2, 3, and 11;
Secs. 12, and 13 (fractional);
Secs. 14, 15, and 22;
Secs. 23, 24, and 26 (fractional);
Secs. 27, 34, and 35;
Sec. 36 (fractional).
Containing approximately 8,860 acres.

T. 3 N., R. 95 W.
Sec. 15 (fractional);
Secs. 19, 20, 28, and 29 (fractional);
Secs. 30 to 33, inclusive;
Secs. 34, 35, and 36 (fractional).
Containing approximately 4,221 acres.

T. 3 N., R. 96 W.
Secs. 22, 23, and 24 (fractional);
Sec. 25;
Secs. 26, to 30 (fractional), inclusive;
Sec. 31;
Sec. 32 (fractional);
Secs. 33 to 36, inclusive.
Containing approximately 6,474 acres.

T. 3 N., R. 97 W.
Secs. 3, 4, and 5 (fractional);
Secs. 6 (fractional), excluding ANCSA Sec. 3(e) application AA-41507;
Secs. 7, 8, and 9;
Secs. 10, 14, and 15 (fractional);
Secs. 16 to 21, inclusive;
Secs. 22, 23, 25, and 26 (fractional);
Secs. 27 to 36, inclusive.
Containing approximately 15,843 acres.

T. 4 N., R. 97 W.
Secs. 16, 17, 20, and 21 (fractional);
Secs. 28 and 29 (fractional)
Sec. 31, excluding U.S. Survey No. 4051 (ANCSA Sec. 3(e) application AA-41506), and ANCSA Sec. 3(e) application AA-15145;
Secs. 32, 33, and 34 (fractional).
Containing approximately 1,554 acres.

T. 4 N., R. 98 W.
Secs. 1 to 4 (fractional), inclusive;
Secs. 7, 8, and 9 (fractional);
Secs. 10 and 11;
Sec. 12 (fractional);
Secs. 13 to 17, inclusive;
Sec. 18 (fractional);
Secs. 19, 20, 21, and 23;
Sec. 24, excluding Native allotment F-18463 Parcel B;
Sec. 25.
Containing approximately 11,900 acres.

T. 4 N., R. 98 W.
Secs. 35 and 36 (fractional).
Containing approximately 60 acres.

T. 3 N., R. 99 W.
Secs. 2, 11, 12, and 13 (fractional);
Sec. 14;
Secs. 23 and 24 (fractional), excluding Native allotment F-16843;
Sec. 25.
Containing approximately 3,565 acres.

Aggregating approximately 62,067 acres within Nunivak National Wildlife Refuge.

Total aggregated acreage, approximately 103,660 acres.

The following water bodies were determined to be tidally influenced:

Mekoryuk River from its mouth to the south boundary of Sec. 12, T. 3 N., R. 98 W., Seward Meridian;

An unnamed stream from its mouth near the old campsite of Kanikyakstalikmiut to the east boundary of Sec. 15, T. 1 N., R. 95 W., Seward Meridian; and

Dall Lake.

Actual limits of tidal influence, for water bodies listed above and for other water bodies within the lands to be conveyed if any will be determined at the time of survey.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions do not constitute a rejection of the selection application, unless specifically so stated.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14895-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 4 C6) An easement for an existing access trail twenty-five (25) feet in width from the State of Alaska, Department of Highways right-of-way in Sec. 1, T. 3 N., R. 98 W., Seward Meridian, southerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease

issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(g)), that (a) the above-described lands which were within the boundaries of the Nunivak National Wildlife Refuge on December 18, 1971, remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States;

4. A right-of-way, F–12541, for a power plant site, approximately 9,375 square feet, located in Sec. 31, T. 4 N., R. 97 W., Seward Meridian, granted to Alaska Village Electric Cooperative, Inc., under the Act of March 4, 1911 (36 Stat. 1253, as amended; 43 U.S.C. 961);

5. The following third-party interests, if valid, created and identified by the U.S. Fish and Wildlife Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g)):

a. *Easement No. R–4*, granted to the State of Alaska, Department of Highways, on October 6, 1972, for highway right-of-way and other purposes, located in protracted Secs. 1 and 2, T. 3 N., R. 98 W., Seward Meridian; Sec. 6, T. 3 N., R. 97 W., Seward Meridian; and Sec. 31, T. 4 N., R. 97 W., Seward Meridian, containing approximately 38 acres.

b. *Permit No. M–9*, granted to the State of Alaska, Department of Public Works, Division of Aviation, on June 7, 1976, for airport right-of-way and other purposes located in protracted Secs. 1, 2, 11, and 12, T. 3 N., R. 98 W., Seward Meridian, containing approximately 528 acres.

6. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Nima Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. To date, approximately 103,660 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 11,540 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, the subsurface estate of the lands described above, excluding those lands which have been withdrawn by Executive Order 5095 and Executive Order 5470 and which are reserved thereby as a national wildlife refuge, shall be conveyed to Calista Corporation, when conveyance is issued to Nima Corporation for the surface estate and shall be subject to the same conditions as the surface conveyance. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the national wildlife refuge system, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 13, 1981 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Nima Corporation, Mekoryuk, Alaska 99630;
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 81–26544 Filed 9–10–81; 8:45 am]

BILLING CODE 4310–84–M

Idaho; Filing of Plats of Survey

1. Plats of survey of the lands described below will be officially filed at the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective at 10:00 a.m. on October 16, 1981:

Boise Meridian, Idaho

T. 1 S., R. 26 E.,
Sec. 36.
T. 2 S., R. 26 E.,
Sec. 36.
T. 3 S., R. 26 E.,
Sec. 36.
T. 2 S., R. 27 E.,
Sec. 16.
T. 4 S., R. 26 E.,
Sec. 36.
T. 4 S., R. 25 E.,
Sec. 16.
Sec. 36.

The areas described aggregate 4,480 acres of public lands.

2. Except for and subject to valid existing rights, title to the above lands, except for lands listed in paragraph 3 below, passed to the State of Idaho upon the acceptance of the above-mentioned plats of survey.

3. The following lands were used by the State of Idaho as base lands in Indemnity List No. 90 dated March 27, 1957, and are included in the Wildhorse Area Multiple Use Classification I–1542, and will therefore be opened only to such forms of disposition as are allowed under the provisions of the multiple use classification on the effective date of the filing of the plat. The lands have been subject to the operation of the U.S. mining laws and mineral leasing laws.

T. 4 S., R. 25 E.,
Sec. 16, N½, NE¼SW¼, E½NW¼SW¼, E½W½NW¼SW¼.

Inquiries concerning the lands should be addressed to the Chief, Branch of

Records, Bureau of Land Management, Boise, Idaho.

Sharon Deroin,

Chief, Branch of Records, Boise, Idaho.

[FR Doc. 81-26489 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-84-M

[M 48573]

Montana; Conveyance

September 1, 1981.

Notice is hereby given that pursuant to the Act of December 22, 1928 (45 Stat. 1069), as amended and supplemented (43 USC 1068 (1976), and the regulations in 43 CFR 2540, a patent issued to Matt Gasvoda and Sons, Inc., on August 26, 1981 for the following described land:

Principal Meridian

T. 26 N., R. 14 E.,
Sec. 35, SW¼NE¼, E½NW¼, and NW¼SE¼.

Containing 160 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the conveyance.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-26603 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-84-M

Utah; Call for Expressions of Leasing Interest in Coal

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for Expressions of Leasing Interest in Federal Coal.

SUMMARY: This call for expressions of coal leasing interest, Phase I, is to integrate potential lessees' data and needs into the coal activity planning phase of the Federal coal management program in the Uinta-Southwestern Utah Coal Production Region. The data received from this call will be used along with existing data to delineate tracts which would be considered for possible competitive leasing.

DATE: Responses to this notice may be received until October 31, 1981.

ADDRESS: Responses should be sent to State Director (930), Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, *and* to District Conservation Manager for Resource Evaluation, U.S. Geological Survey, Conservation Division, 2070 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT:

Max Nielson, Coal Project Manger, Utah State Office, BLM, 136 East South Temple, Salt Lake City, Utah 84111; telephone (801) 524-5326.

Morgan Jensen, District Manager, Cedar City District, BLM, 1579 North Main, Cedar City, Utah 84720; telephone (801) 586-2401.

SUPPLEMENTARY INFORMATION: This is to advise all interested parties that the official call for expressions of interest in Federal coal leasing, Phase I, is now in effect for the second round of coal leasing activity in the Unita-Southwestern Utah Coal Region for possible lease sales beginning in December 1983. The call for Phase II is anticipated in November and December of 1981. While the total situation and needs of the region should be considered, the responses submitted by October 31, 1981, should be for the Phase I portion only. Areas covered by the call are as follows:

Phase I: (September and October 1981)

BLM Planning Area and Coal Field (KRCRA)

Escalante/Paria/Zion (Utah)—Kaiparowits/Alton-Kanab/Kolob

Phase II (Tentatively planned for November and December 1981)

BLM Planning Area

Forest (Uath; some USFS)—Wasatch Plateau/Emery
Pirce River (Utah)— Book Cliffs

US Forest Service Planning Area

Ferron-Price—Wasatch Plateau
Salina—Wasatch Plateau

This call for experssions of interest is the first step in activity planning under the Federal coal management program. It is being made before any tract boundaries are delineated within an area found suitable for further consideration for coal leasing through the application of the unsuitablity criteria. The results of this call will provide significant information that will be employed in delineating tracts that might be put up for lease sale after they have been through the tract ranking, selection, scheduling and analysis processes that are integral parts of the Federal coal management program defined in 43 CFR Subpart 3420.

Expressions of interest from small businesses and public bodies are actively invited in accordance with the provisions of 43 CFR 3420.1-4 which states that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those qualifying under the definitions of public bodies and small coal mining businesses. Entities desiring special leasing opportunities as a public body should state their intentions in their expressions of leasing interest for possible public body set asides. Proof of public body status and evidence of qualifications as required by 43 CFR 3420.1-4(b)(1)(ii) shall be submitted with the expression of interest.

A major purpose of this call for expressions of interest is to integrate potential lessees' data and needs with the process of delineating the logical mining units which will be considered prior to a lease sale. The BLM hopes to gain sufficient information from this call, as well as from its own site specific analyses, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination on specific tracts.

An expression of interest is not an application. The size and/or location of a proposed tract as indicated by an expression of interest may be modified or changed if there is sufficient reason to do so and the coal included in the modified or relocated tract is of approximately equal quality and tonnage to that shown in the expression of interest.

Examples of the types of concerns that may make such action necessary include: the competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation and State preferences and priorities.

These expressions of leasing interest should include the following data where applicable:

1. *Quantity needs* (total tonnage, average tons per year, and year during which production should commence) for both coal producers and users.

2. *Quality needs* (types and grades of coal) for both producers and users.

3. *Location:*

a. Tracts desired by mining companies (narrative description with delineation on s surface minerals management quad map, available for purchase from the BLM State Office).

b. Public and private industry user facilities in region.

c. If no location is indicated, but other specified data are provided, the expression will be considered. In such cases the joint BLM/GS delineation team will locate the tract.

4. *Type of Mine:*

a. Surface or underground.

b. Technique of mining (i.e., longwall, room and pillar, strip mining, etc.).

5. *Proposed Uses of Coal:*

a. By mining companies.

b. By public and private industries.

6. *Where coal is consumed (include extra-regional markets).*

7. *Transportation Needs (i.e., railroads, pipelines, etc.):*

a. Existing facilities.
b. Proposed facilities and development timing.
8. Available Sources of Coal:
a. Presently operative.
b. Contingency or other sources.
9. *Information Relating to Mineral Ownership:*
a. Information on surface owner consents previously granted, e.g., a description of the location of the property, whether consents are transferable, etc.
b. Commitments from fee coal owners or for associated non-Federal coal.
10. *Special qualifications* for public bodies requesting special leasing opportunities. These specific requirements are listed in 43 CFR 3472.2–5.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity, or public body may participate and submit expressions of leasing interest under this call.

Management framwork planning information for the Escalante/Paria/Zion planning units may be obtained by contracting the Cedar City BLM District Manager, at the address above. A map with informationon the Phase I area open for expressions of interest and acceptable for further consideration for coal leasing is being sent to the BLM-Utah "coal mailing list." This map may also be obtained by contracting the Coal Project Manager in the BLM Utah State Office at the address given above.

Dated: September 4, 1981.

Gerald E. Magnuson,

Acting State Director, Utah Bureau of Land Management.

[FR Doc. 81-26400 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-84-M

[W-46391]

Wyoming; Termination of Classification

1. By a classification decision dated July 24, 1974, the following described lands were classified for disposal through private exchange.

Sixth Principal Meridian, Wyoming

T. 26 N., R. 114 W.,
Sec. 3, lot 4, SW¼NW¼;
Sec. 4, lots 1, 2, and 3, SE¼NE¼.
T. 27 N., R. 114 W.,
Sec. 33, E½SE¼;
Sec. 34, NE¼SW¼.
The areas described aggregate 360.47 acres.

2. The proposed exchange could not be completed and the applicants withdrew their application. It has been determined that the classification should be terminated.

3. Pursuant to the regulations set forth in 43 CFR Part 2450, the classification set forth in paragraph 1, above is hereby terminated.

4. Acceptance of the withdrawal of the private exchange application removed the segregative effect of the exchange application segregating the lands from the public land laws and mining laws.

5. At 7:45 a.m. on October 1, 1981, the lands shall be open to the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

6. At 7:45 a.m. on October 1, 1981, the lands will be open to location under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals and applicable law.

7. The lands have been and will continue to be open to mineral leasing.

Dated: September 1, 1981.

Maxwell T. Lieurance,

State Director.

[FR Doc. 81-26604 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-84-M

San Bernardino County, California; Conveyance of Public Land

September 3, 1981.

Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), Leslie B. Lambert, Sr., has purchased by noncompetitive sale public land in San Bernardino County, California, described as:

San Bernardino Meridian, California

T. 2 N., R. 8 E.,
Sec. 32, W½NE¼NE¼NE¼.
Containing 5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Lambert.

Joan B. Russell,

Chief, Land Section, Branch of Lands and Minerals Operations.

[FR Doc. 81-26605 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-83-M

Coal Preference Right Lease Application; Meeting

September 3, 1981.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given that a public meeting will be held to discuss a coal preference right lease application (No. U-5146) by Mountain States Resources Corporation of Salt Lake City, Utah. The meeting will be held on October 21, 1981 at 10:00 a.m. in the Sevier County Courthouse Auditorium, Richfield, Utah.

The purpose of the meeting is to allow opportunity for public statements on a draft Environmental Assessment of the impacts of federal lands which could result from issuing the proposed lease. The public may also provide comments on the fair market value and economic recovery potential of the coal which could be developed under the proposed lease.

DATES: Copies of the draft Environmental Assessment will be available from the Bureau of Land Management, Sevier River Resource Area, 180 North 100 East, Richfield, Utah 84701, after September 21, 1981. Comments will be accepted in writing until October 21, 1981 or at the public meeting.

SUPPLEMENTARY INFORMATION: The following is a legal description of the area (2563.32 acres) for which Mountain States Resources Corporation has filed a preference right lease application:

T24S, R5E
Sec. 17, All;
Sec. 18, E½E½;
Sec. 19, Lot 1, Lot 2, S½NE¼, E½SW¼, SE¼;
Sec. 20, Lot 1, Lot 2, Lot 3, Lot 4, S½N½, S½;
Sec. 21, Lot 1, Lot 2, Lot 3, Lot 4, S½N½, S½;
Sec. 28, E½NE¼.

This area falls within the Bureau's Forest Planning Unit. The coal unsuitability report which was prepared for this unit in 1980 will be used in analyzing the preference right lease application. Copies of this report are available from the Sevier River Resource Area.

FOR FURTHER INFORMATION CONTACT:

Roderick Lister, Area Manager, Sevier River Resource Area, 150 North 100 East, Richfield, Utah 84701, or telephone (801) 896-8228; or

Donald L. Pendleton, Richfield District Manager, 150 East 900 North, Richfield, Utah 84701, or telephone (801) 896-8221.

Donald L. Pendleton,

District Manager.

[FR Doc. 81-26606 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-84-M

[1784 (020)]

Arizona; Phoenix District, Advisory council and Kingman Grazing Advisory Board; Joint Meeting

The Phoenx District, BLM, District Advisory council will meet jointly with the Kingman Resource Area (Phoenix District) Grazing Advisory Board on October 22, 1981. The meeting will be held at 7:30 p.m., at the Mohave County Fairgrounds in Kingman, Arizona.

The council and board have been established by, and are managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Managment Act of 1976, and the Public Rangeland Improvement Act of 1978.

The council and board will hear public statements on the causes and solutions to the problem of vandalism on public range lands. Vandalism includes destruction to public and private range improvements such as stock tanks and windmills; leaving open stock gates; destruction of fencing, range survey exclosures, and fragile soils by vehicles; and harrassment of livestock.

The public will have an opportunity to present its views to the council and board from 7:30 p.m. to 9:00 p.m. The council and board will then discuss the problem and offer a resolution to the District Manager, Phoenix, suggesting steps for solving the problem.

People wishing to make statements to the council and board will be requested to sign a speaker's roster before the meeting begins. Depending on the number of people who wish to speak, the Chairman of the council may set a time limit for each speaker.

Summary minutes of the meeting will be maintained at the district office in Phoenix and Kingman Resource Area office, and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information, contact Jack de Golia at (602) 241–2908.

Dated: September 3, 1981.

W. K. Barker,

District Manager.

[FR Doc. 81–26488 Filed 9–10–81; 8:45 am]

BILLING CODE 4310–84–M

Ely District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Ely District Advisory Council will conduct a meeting on Wednesday, October 21, 1981. The meeting will convene at 9:30 a.m. in the Conference Room of the Ely District BLM Office, Pioche Highway, Ely, Nevada. The following events and topics will be included on the agenda for the meeting:

(1) Minutes of the last meeting
(2) Committee reports
(3) Acting District Manager's comments
(4) Update on Schell MFP for Wilderness
(5) Public comment period
(6) Update on activities by Resource Area
(7) Council recommendations
(8) Determination of next meeting date and place
(9) White Pine Power Project proposed site visitations

The meeting is open to the public. Written comments may be filed with the District Manager for the Council's consideration, and oral statements will be heard between 10:00 and 10:30 a.m., October 21, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager. Those persons other than Council members wishing to attend the field trip must provide their own transportation.

Summary minutes of the meeting will be available for public inspection at the Ely District Office within 30 days following the meeting.

DATE: October 21, 1981.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FUTHER INFORMATION CONTACT: Ms. Cleone McDonald, 702–289–4865.

Date Signed: September 2, 1981.

G. Duncan MacDonald,

Acting District Manager.

[FR Doc. 81–26487 Filed 9–10–81; 8:45 am]

BILLING CODE 4310–84–M

Geological Survey

Aminoil U.S.A., Inc.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Aminoil U.S.A., Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 4228 and 3582, Blocks 133 and 146, respectively, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Develoment and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 2, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81–26464 Filed 9–10–81; 8:45 am]

BILLING CODE 4310–31–M

ODECO Oil and Gas Co.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3194, Block 59, portion, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S.

Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 3, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-26485 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-31-M

ODECO Oil and Gas Co.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 073, Block 19, South Pelto Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 4, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-26486 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-31-M

Gulf of Mexico Outer Continental Shelf; Offshore Texas; Matagorda Island Block 669; Blowout and Fire

AGENCY: Geological Survey, Interior.

ACTION: Report on Blowout and Fire, Matagorda Island Block 669, Gulf of Mexico Outer Continental Shelf (OCS), Offshore the State of Texas.

Pursuant to the provisions of section 22 of the OCS Lands Act, 43 U.S.C. 1348, an investigation was conducted into the blowout and fire that occurred on August 30, 1980, involving drilling operations on Well No. 1, Lease OCS-G 4065, Matagorda Island Block 669, Gulf of Mexico, off the Texas coast. A report has been prepared by the Review Board appointed to conduct the investigation, and copies of the report are now available.

The Review Board was comprised of four USGS Conservation Division members with legal assistance by a representative of the Office of the Solicitor, Department of the Interior. A public hearing was held in order to take testimony from 22 witnesses. Sessions were conducted in Metairie, Louisiana, on December 8, 9, 10, and 11, 1980, and January 22, 1981. Testimony was taken from the mud engineer in Houston, Texas, on January 23, 1981.

The investigation findings included in the report cover the following topics:

A. Preliminary Activities
B. Loss of Well-Control
C. Attempts at Restoring Well-Control
D. Explosion and Fire
E. Emergency Warning
F. Deaths and Damage

Additionally, the Review Board's conclusions address the proximate cause of the incident as loss of well-control; the proximate cause of the explosion and fire as the failure of the 9⅝-inch casing just below the blowout-preventer stack and casinghead; the proximate causes of the resulting fatalities; and several contributing causes associated with the incident.

The report also contains a number of recommendations to the USGS concerning revision of regulatory requirements to eliminate or minimize the possibility of a similar occurrence in the future.

Copies of the report may be obtained from the Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, 640 National Center, Reston, Virginia 22092. For further information contact Mr. Price McDonald at (703) 860-6831.

Dated: September 4, 1981.

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division.

[FR Doc. 81-26526 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

National Park System Advisory Board; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the National Park System Advisory Board will be held in Washington, D.C., and Gettysburg, PA, October 7, 8 and 9, 1981.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System.

The members of the Advisory Board are: Dr. Robin Winks (Chairman), New Haven, CT; Dr. Douglas Anderson, Providence, RI; Dr. Kathleen Abrams, Miami Shore, FL; Mr. D. Lindsay Pettus, Lancaster, SC; Dr. Asa C. Sims, Jr., New Orleans, LA; Dr. Edgar Wayburn, San Francisco, CA; Hon. Gordon Allott, Englewood, CO; Mr. Charles Cushman, Sonoma, CA; Mr. Fred E. Hummel, Sacramento, CA; Mr. Raymond J. Nesbit, Sacramento, CA; Hon. Keith G. Sebelius, Norton, KS; and Mr. Allen J. Underberg, Rochester, NY.

On October 7 the Advisory Board will be on a field trip to the Eisenhower National Historic Site, and Gettysburg National Military Park, Gettysburg, PA.

On October 8 and 9, the Advisory Board will meet in general business sessions starting at 9:00 A.M. in Room 7000A and B, Department of the Interior, 18th and C Sts, NW., Washington, to consider administrative matters pertaining to the Board; receive and discuss several task force reports; consider and make recommendations on proposed national historic landmark designations; and review and discuss legislative and management issues affecting the National Park System.

The meetings will be open to the public. Space and facilities to accommodate members of the public at the general sessions of the meeting are limited and persons will be accommodated on a first-come-first-served basis. Any member of the public may file with the Advisory Board a written statement concerning matters to be discussed. Persons wishing further

information concerning this meeting or who wish to submit written statements may contact Shirley Luikens, Advisory Boards and Commissions, National Park Service, Washington, D.C. 20240 (202–343–2012).

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3416, Interior Building, Washington, DC.

Dated August 31, 1981.

Jean C. Henderer,

Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 81-26543 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-70-M

Sleeping Bear Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held at 1:30 p.m. (EST), October 23, 1981, at Crystal Mountain in Thompsonsville, Michigan.

The Commission was established by the Act of October 21, 1970, 84 Stat. 1076, 16 U.S.C. 460x–3, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Sleeping Bear Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Samuel F. Eberly (Chairman)
Mr. Charles H. Yeates
Mr. John B. Daugherty
Mr. Walter B. Hart
Mr. George T. Schilling
Mr. William B. Bolton
Mr. Lawrence J. Verdier
Dr. Michael Chubb
Ms. Evangeline J. Stanchik
Ms. Sylvia B. Kruger

The agenda for the meeting will include a report of the Benzie County Corridor situation and pending legislation relating to land acquisition. There will also be a review of the 5-year development schedule and a progress report on the Docking Facility Feasibility Study.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Richard R. Peterson, Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan 49635, telephone 616–352–9611.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan.

Dated: August 31, 1981.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 81-26542 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River

AGENCY: National Park Service, Mid-Atlantic Regional Office.

ACTION: Publication of general guidelines for land and water use controls in the Upper Delaware National Scenic and Recreational River corridor.

SUMMARY: These general guidelines provide local, county, state, regional and federal governments guidance in the preparation and enforcement of plans and regulations, according to the provisions of Section 704 of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 92 Stat. 3467, (16 U.S.C. 1274).

The general guidelines provide a basis for Secretarial review of local plans, regulation and land use decisions that will begin not less than two years after the River Management Plan is approved. The guidelines include general objectives for the river corridor as well as specific management objectives and recommended land uses for scenic and recreational segments.

DATE: The effective date of the general guidelines will be October 13, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Beal, Upper Delaware Planning Team, Mid-Atlantic Regional Office, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: The overall philosophy of the Upper Delaware National Scenic and Recreational River is to manage and protect the existing values and character of the 75 mile river corridor through local land use controls, cooperation of local, county, regional and federal plans and regulations, and minimal federal land acquisition (up to 1,450 acres). These guidelines are one of the early steps in the planning process. They provide municipalities as well as all levels of government guidance in the preparation and enforcement of plans and regulations while the River Management Plan is in preparation.

The development of the River Management Plan will be based on these guidelines as well as additional analysis, involvement of interested state and local governmental units and public participation. As noted in a Federal Register Notice of July 13, 1981 (46 FR 35991), environmental review of the Upper Delaware National Scenic and Recreational River program pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, will be conducted in conjunction with development of the River Management Plan.

James G. Watt,

Secretary of the Interior.

September 4, 1981.

General Guidelines—Upper Delaware National Scenic and Recreational River

For land and water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania, by the local political subdivisions, and by the Delaware River Basin Commission.

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Upper Delaware National Scenic and Recreational River

General Guidelines

For land and water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania, by the local political subdivisions, and by the Delaware River Basin Commission.

I. Introduction

A. *Legislative Authority for General Guidelines.* Section 704 of Pub. L. 95–625, which authorizes inclusion of the Upper Delaware River in the National Wild and Scenic Rivers System, establishes a new approach to river

preservation and management. Heretofore, when Congress had determined that a river segment is of such significance that its preservation should be assured, it has designated one of the Federal land-managing agencies to manage the river. Preservation and management have been implemented through Federal acquisition of lands abutting the river; and, with some exceptions, the Federal agency has had exclusive management responsibility and authority.

However, in authorizing the establishment of the Upper Delaware National Scenic and Recreational River, Congress took a different approach. The Act authorizes relatively little Federal acquisition, and places heavy reliance upon the Delaware River Basin Commission, the Commonwealth of Pennsylvania, the State of New York, the five affected counties (Pike and Wayne Counties in Pennsylvania and Delaware, Orange, and Sullivan Counties in New York), and the fifteen affected towns and townships to protect the values of the river corridor. Where existing Management authorities are being utilized to protect area values, they should continue. Elsewhere, the existing authorities should be more fully and concertedly exercised. The National Park Service is assigned to represent the Federal interest in the protection of area values. In addition to managing recreational use of the river, the Park Service's responsibility is to coordinate and facilitate preservation and management activities in the Upper Delaware Valley. The Federal government's role is not to supercede the authority of the states and local governments, or assume their responsibilities; the Park Service's role will increase, as provided for under the Act, only if the other levels of government do not fulfill their responsibilities.

The legislation requires the following actions:

1. The publication of "General Guidelines for Land and Water Use Control Measures" which set standards for measures to be developed and implemented by the states of New York and Pennsylvania, their affected local political subdivisions, and the Delaware River Basin Commission (Pub. L. 95–625 Sec. 704(b)(1)).

2. The development and implementation of interim programs by the National Park Service as deemed "necessary and appropriate to protect the Upper Delaware River and its environs and to protect the public health and safety. Such interim programs shall include provision of information to river users, education and interpretation activities, and regulation of recreational use of the river" (Pub. L. 95–625 Sec. 704(c)(3)).

3. The development and adoption within three years of a River Management Plan which will define a program for the protection of scenic, recreational, and natural resources, guide the management of recreational use of the river, and coordinate the management activities of local, county, state, and federal governments, and the Delaware River Basin Commission (DRBC) (Pub. L. 95–625 Sec. 704(c)(2)).

4. The review of all relevant local plans, laws, and ordinances to determine whether they substantially conform to the approved management plan and to the general guidelines. The Secretary will also "determine the adequacy of enforcement of such plans, laws, ordinances, including but not limited to review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances" (Pub. L. 95–625 Sec. 704(e)(1)).

The General Guidelines and the River Management Plan involve two major, but distinctly different, opportunities for local government to assist in shaping the future of the Upper Delaware River. The Guidelines were prepared by the National Park Service with the active participation and recommendation of the many governments and agencies involved in the Upper Delaware River Valley, with the participation of concerned private individuals and organization and the advice of the Upper Delaware Citizens Advisory Council. Public hearings were held in New York and Pennsylvania prior to publication of the General Guidelines. The guidelines may also be amended, as necessary, if they are revised with appropriate participation by various levels of government, the public and the Citizens Advisory Council. These Guidelines represent the initial step towards the development of a coordinated preservation and management program for the Upper Delaware Scenic and Recreational River.

The River Management Plan, which follows the General Guidelines, will consider the full range of land use and management programs and strategies to protect the resource values of the Upper Delaware including local zoning, subdivision controls, special land use districts, land acquisition by private land trusts or other means, scenic easements, performance standards, building and sanitary codes, and various other methods of land use control and protection. The Management Plan will also provide an analysis of the adequacy of existing state, federal, and DRBC laws and programs. The preparation and implementation of the Management plan is a cooperative effort among the National Park Service, the states of New York and Pennsylvania, counties and numerous units of local government, and the Delaware River Basin Commission along with the advice and recommendations of the Citizens Advisory Council. As with the Guidelines, public hearings will be held prior to the publication of the River Management Plan. The Plan must be compatible with the General Guidelines.

B. *Geographical Area Affected by the General Guidelines.* The General Guidelines apply to those lands and waters within the boundaries of the Upper Delaware National Scenic and Recreational River as depicted on the boundary map entitled "The Upper Delaware Scenic and Recreational River," dated April 1978. The boundary map indicates the locations of segments of the river classified as scenic and recreational according to the Wild and Scenic Rivers Act of 1968 and the general location of hamlet, town and township areas. The lateral boundaries of the river corridor should be from "ridgeline to ridgeline" (as described in the *Upper Delaware River—A Wild and Scenic River Study*, Bureau of Outdoor Recreation, July 1976). The term "ridgeline to ridgeline" will be more accurately defined by the River Management Plan. On an interim basis, while the River Management Plan is being prepared, municipalities should consider corridor boundaries, and in doing so, should be guided by the existing 1978 boundary map.

The upper and lower terminals of the river corridor are defined by the legislation as the confluence of the East and West Branches of the Delaware River below Hancock, New York and the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York.

These boundaries will be effective and applicable until final boundaries are determined by the River Management Plan process. The River Management Plan will define the "final landward boundaries and upper and lower termini of the area, and the specific segments of the river classified as scenic and recreational" as provided for in Pub. L. 95–625, Section 704(c)(2)(A).

The classified areas are described as follows:

1. **Recreational**—From the confluence of the East and West Branches to ½ mile downstream from Lordville, NY

II. Scenic—From ½ mile downstream from Lordville to 1¼ miles upstream from Callicoon, NY
III. Recreational—From 1¼ miles upstream from Callicoon to the lower limits of Narrowsburg, NY
IV. Scenic—From the lower limits of Narrowsburg to 1 mile downstream from Westcolang, PA
V. Recreational—From 1 mile downstream from Westcolang to the existing railroad bridge immediately downstream of Cherry Island in the Vicinity of Sparrow Bush, NY

c. *Background.* In May 1969, a cooperative Interagency Field Task Force, led by the then Bureau of Outdoor Recreation (now National Park Service) and including representatives of a number of federal and state agencies and the Delaware River Basin Commission (DRBC), began the detailed study of the Upper Delaware required by the National Wild and Scenic Rivers Act. The preliminary findings of the Interagency Task Force described alternative methods for managing the Upper Delaware River, which was found to qualify for inclusion in the National System.

In February 1974, Heritage Conservation and Recreation Service (HCRS) released its report recommending inclusion of the Upper Delaware in the National Wild and Scenic Rivers System. Among the other recommendations contained in this report was a proposal for the development of a land use guidance system. The final report and the environmental impact statement were released by HCRS in 1976. At that point, formal federal agency involvement was curtailed pending Congressional action on the report.

To provide local input on the issue of land use guidance, a group known as the Upper Delaware Clearinghouse (UDC) began meeting in November 1975. The UDC, made up of representatives of county planning departments, local planning boards, the river associations, the two state governments, and the Delaware River Basin Commission, met periodically until the spring of 1978. Among other activities, it prepared and fostered public discussion and support for the proposal of zoning guidelines for the river corridor as one major component of land use controls.

In September, 1977, a joint position statement concerning the designation of the Upper Delaware was agreed to by the New York Department of Environmental Conservation and the Pennsylvania Department of Environmental Resources. The principles of the joint position statement were subequently endorsed by a unanimous vote of the DRBC in a resolution adopted in October, 1977.

Passage of the authorizing legislation in 1978 authorized a Federal presence to the Upper Delaware in the form of the National Park Service.

These General Guidelines are based on the guidelines which were developed and proposed by the Upper Delaware Clearinghouse. The UDC formulated the guidelines over a period of more than a year which included numerous public meetings in the valley. Many elements of these General Guidelines and the overall format have been adapted from the UDC guidelines.

II. Purpose and Objectives

A. *Purpose and Objectives of the National Scenic and Recreational River.* The purpose of designating the Upper Delaware as a National Scenic and Recreational River is to preserve the Upper Delaware River, which, along with its adjacent lands, possesses outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, environmental, and other similar values. The purpose is also to preserve the rivers free-flowing condition and to protect the river and its immediate environment (see Section IB) for the benefit and enjoyment of present and future generations, according to the National Wild and Scenic Rivers Act (Pub. L. 90-542).

B. *Purpose of the General Guidelines.* An important function of the General Guidelines will be to promote a consistency, unity, and commonality of approach to land use management by all of the various agencies of federal, state, and local government having jurisdiction within the Upper Delaware Corridor. These guidelines should complement and contribute to the systematic application of existing local, state and federal laws and regulations. The river corridor is a distinctive physiographic unit, defined by a common scenic quality and united by the river; thus, there is a need for the various governmental agencies to strive for consistency in the application of standards and in their adoption and implementation of laws and ordinances to protect the significant qualities of the resource.

These Guidelines serve:

To guide the NPS in establishing and implementing interim management programs.

To guide all parties, particularly local governments, in the preparation and implementation of plans, ordinances, and regulations in the interim period before the completion and approval of the management plan.

To guide all parties in the development of the management plan.

C. *Specific Objectives of the General Guidelines.*

1. To protect and enhance the unique character of the river corridor for the full use and enjoyment of year-round residents and seasonal visitors and to insure the maintenance of a high quality recreational experience.

2. To maintain and enhance the economic value of the area in a manner consistent with efforts to protect the recognized values of the river corridor.

3. To prevent the destruction or deterioration of the qualities for which the Upper Delaware has been designated through recreational overuse, air and water pollution, incompatible land use, unacceptable noise levels, excessive vehicular traffic, or other threats to environmental quality.

4. To protect and enhance the communal, agricultural, recreational, cultural, historical, and scenic qualities of the river valley.

5. Through appropriate non-structural solutions, such as use of appropriate land use controls, minimize the destruction caused by flooding while permitting the free flow of flood waters.

6. To promote appropriate timber management practices within the corridor.

7. To protect and preserve fish and wildlife habitats through proper land use and land management decisions.

8. To view the Upper Delaware River Valley as a single resource and encourage a unified identity of the area.

III. General Guidelines for Land and Water Use Control Measures

A. *Relation to Existing Laws and Plans.* These Guidelines establish standards for management of land and water uses in the Upper Delaware National Scenic and Recreational River by all levels of government and the private sector. Some of these standards are already embodied in existing federal, state, county, and local laws and ordinances. Others may require further action, particularly by local government, for full implementation and/or adoption.

Although the Guidelines are directed to municipalities to be used in the preparation of zoning ordinances, a wide range of land use control mechanisms may be utilized to manage the Upper Delaware National Scenic and Recreational River. These include, but are not limited to, subdivision regulations, building and sanitary codes, performance standards, special land use districts, private trusts, existing state, federal, and DRBC regulations.

These Guidelines do not relieve any person or public or private agency from

the obligations to comply fully, in all respects, with the applicable provisions of existing federal, state, or local laws or regulations. None of these statutes, ordinances or regulations are superseded by the Guidelines. However, the Guidelines do provide land and water use control standards with which all relevant local statutes, ordinances and regulations must substantially conform.

B. *Coordination and Interface With Municipalities.* These Guidelines are intended to act as a framework within which municipalities are encouraged to develop zoning ordinances and regulations which comply with the intent and purpose of the River Management Plan. For example, municipalities may create a Delaware River District which utilizes these Guidelines as a basis for land use regulations within that district. All of the standards specified in these Guidelines should be fully considered, where they are applicable, in the preparation of local plans, laws, and regulations.

A municipality developing town/township land use controls through an ongoing comprehensive planning process, should recognize the needs of the entire community but also acknowledge that uses within the river corridor should be consistent with these Guidelines and the River Management Plan to be developed as required by Pub. L. 95–625, Section 704(c)(1).

C. *Management Objectives.*

1. Scenic and Recreational River Segments: [1]

—To preserve the scenic quality and the diverse landscape patterns of the river corridor.
—To provide outdoor recreation opportunities in a near natural setting.
—To develop management strategies, site development practices and appearance and other performance standards as necessary to maintain the positive qualities of the natural and manmade environment.
—To maintain the present rural character of the area.
—To preserve significant natural and cultural resources.
—To protect and enforce identified limits as related to the rivers recreational carrying capacity.
—To provide for a quality recreational experience.

2. Recreational River Segments [1] (in addition to those listed in C–1 above):

—To protect and enhance existing recreational values.
—To provide opportunities for water-related and land based recreation.

3. Settlement Areas:

—To direct new growth within the river corridor to established settlement areas.
—To maintain the existing character of these settlement areas.
—To encourage rehabilitation and utilization of existing buildings for commercial and residential uses through appropriate remodeling and renovation.
—To encourage preservation of historic buildings.
—To accommodate additional commercial, residential, and institutional uses, where appropriate, in accordance with the provisions of local plans and the River Management Plan.
—To encourage community infilling and cost effective utilization of government services and facilities.

D. *Schedule of Land Uses and Standards.*

1. Land Uses: [2]

Allowable uses	Examples of incompatible uses
Scenic River Segment	
Agriculture	Recreational vehicle campgrounds
Agriculture-related structures	Industrial development
Forest management	Commercial structures
Fish and wildlife management	Motels and Hotels
Low density residential development	Mining or excavation
Primitive campgrounds	New motor vehicle access to river
Stream improvement structures for fishery management purposes	Moderate to high density residential development
Open space	Structures or developments which significantly diminish the scenic qualities of the river area
Accessory uses	
Recreational River Segment	
All uses permitted in scenic river segments	Commercial development other than allowed as river-related recreational facilities
River-related recreational facilities	Industrial development
Public roads and access points	High density residential development
Recreational vehicle campgrounds	Structures or developments which significantly diminish the scenic and recreational qualities of the river area
Low to Moderate density residential development	
Settlement areas	
Uses allowed in scenic and recreational river segments and, in addition, where a pattern of settlement is already established and adequate sewage treatment is available, and include commercial, light, industrial, moderate to high density residential and institutional uses which are consistent with the character of the settlement area environment	

2. Narrative Explanation of Schedule of Land Uses.

A variety of uses are allowed within the designated scenic and recreational areas providing that such uses are in general conformance with these guidelines.

Settlements are existing thickly settled areas or hamlets where population and structures are concentrated. In these areas, where a pattern of more intensive land use has developed and adequate utilities and infrastructure are available, additional commercial, residential, light industrial, and institutional uses may be accommodated. Within the corridor, settlement areas are limited to: Equinunk, Long Eddy, Hankins, Callicoon, Damascus, Cochecton, Milanville, Narrowsburg, Lackawaxen, Barryville, Shohola, Pond Eddy and Millrift. In general, settlement areas have an existing density of more than one dwelling unit or structure per two acres. Settlement areas will be mapped and identified in the River Management Plan.

High density residential development can be generally defined as exceeding an overall density of one dwelling unit per 2 acres. Moderate density would include densities of one dwelling unit for every two to five acres. Low density would include areas with a density of one dwelling unit per five acres or greater.

Other uses presently existing in the river corridor, not included as allowable uses, would be classified as nonconforming. Nonconforming uses existing at the time of adoption of these Guidelines should be allowed to continue. Specific conditions regarding expansion, conversion or replacement of nonconforming uses would be identified in the River Management Plan and in local plans and ordinances.

Municipalities may adopt conditional use and special permit provisions in

[1] As defined by the Wild and Scenic Rivers Act of 1968.

[2] There are certain land uses which are not listed as allowable uses or examples of incompatible uses. Provisions for these uses are discussed in the narrative explanation of Schedule of Land Uses, which follows.

their zoning ordinances and designate conditional use and special permit granting authorities. Conditional use and special permits may be granted for a variety of uses that should be allowed only if they are located, designed, and constructed in a manner that is consistent with the goals and objectives of these guidelines. Expansion of an existing nonconforming use should be considered in the same manner as a conditional use and should require special review or permit. Conditional use and special permit granting authorities may require site and development plans of varying detail as dictated by the projected impacts and complexity of each individual proposal.

Accessory uses, those that are subordinate to customary principle uses, are allowable and will be identified more specifically in the River Management Plan and should be defined in local ordinances.

River-related recreational facilities are those commercial and/or public recreational uses which are principally oriented toward river users. Such uses shall include but not be limited to boat accesses and bases, campgrounds, swimming areas, comfort stations, and other facilities which offer an array of recreational activities and services but should not include motels, hotels, restaurants, amusement parks and the like. Small services such as a snack stand, bait and tackle shops, etc., may also be allowed if they are part of a larger recreational facility. Where necessary, an appropriate buffer should be maintained to separate these recreational uses from residential and other uses.

3. Standards.

(a) Setback from mean high water
150 feet
(b) Minimum lot size
2 acres—recreational segments
5 acres—scenic segments
Settlement areas are exempt; subject to further refinement in local planning process in accordance with River Management Plan
(c) Minimum river frontage
200 feet
(d) Minimum road frontage
200 feet; settlement areas exempt
(e) Setback from bluff line
150 feet
(f) Maximum allowable slope for building
15 percent
(g) Maximum area of lot that may be cleared for residential, commercial and institutional use
No more than 10,000 square feet of any lot may be totally cleared for building purposes; settlement areas are exempt
(h) Maximum building height
35 feet; municipal water towers, church steeples, and silos are exempt
(i) Yard requirements
50 foot front, 50 foot back, 50 foot each side; settlement areas are exempt
(j) Sign restrictions
Off-Premises Signs
—Public and/or safety signs: permitted according to provisions described in narrative
—Commerical directories: one at each settlement area
On-Premises Signs
—Public and/or safety signs: permitted according to provisions described in narrative
—Business identification signs: one per property per frontage road, on premises only and related to use
(k) Animal husbandry
No intensive livestock operations
(l) Timber harvest
Selective cut except under certain circumstances
(m) Floodplain protection
No development in the 100-year floodplain, as delineated by appropriate methods

4. Federally or State Funded or Regulated Projects and Programs, for example:

(a) New highways and bridges
New construction should be allowed only if it is demonstrated that no feasible and prudent alternatives exist and all possible means to mitigate environmental damage are taken. Replacement or repair of existing bridges are exempt
(b) Impoundments
None permitted, except in compliance with Section 7 of the Wild and Scenic Rivers Act. Stream improvement structures for fishery management are exempt provided they do not obstruct navigation and provided the natural character of the stream is generally maintained
(c) Power Transmission/Utility lines
Construction of new power transmission/utility lines are prohibited unless no direct adverse effect is demonstrated
(d) Hunting and Fishing
Continue as regulated by state and federal law

5. Narrative Explanation of Schedule of Standards.

(a) Setback from mean high water: Structures should be set back 150 feet from the mean high water mark of the river and meet floodplain requirements. Structures exempt from this requirement include fences, docks, river access parking areas, agricultural use structures, boat launching sites, and signs as allowed by these Guidelines.

(b) Minimum lot size: For Recreational segments, the minimum lot size is recommended to be two acres. A five acre minimum lot size is recommended for Scenic segments. Settlement areas are exempt from these mimimum lot size recommendations.

Clustering and planned unit developments are encouraged in order to provide flexibility in site design and utilization, so long as overall density standards are maintained.

Where local regulations and review procedures exist for cluster developments, these density guidelines could be relaxed provided that the proposed development is in keeping with the purpose, goals, and objectives of the Wild and Scenic Rivers Act and these Guidelines.

(c/d) Frontage: Minimum river and road frontage should be 200 feet to prevent crowding on extremely narrow or pie shaped lots and to provide for adequate space between dwelling units. Clustering would be permitted on internal service streets. Within the settlement areas, frontage requirement should be consistent with existing patterns as determined by the River Management Plan process.

(e) Setback from bluff line: The bluff line is the edge or crest of any high bank or bold headland with a broad precipitous cliff face overlooking the Delaware River. Setback from the bluff line is intended to prevent construction in hazardous areas subject to erosion as well as to preserve the scenic integrity of this natural feature in the river corridor. Bluff line construction may obstruct or obscure scenic vistas from the river or view looking towards the river. Setback from the bluff line would minimize the visual impact of a 2½ story or 35 foot structure. Setbacks from the bluff line should be 150 feet. Bluff areas will be identified by the River Management Plan.

(f) Maximum allowable slope for building: Slopes in excess of 15 percent should be avoided as building sites because of the impact of construction activities, erosion of thin soils, and the difficulty in locating septic systems that will function adequately. Construction on sites in excess of 15 percent slope may be acceptable in certain cases where slopes are stable, minimal site disturbance takes place and compliance with health and safety standards can be demonstrated.

(g) Maximum clearing of lots: No more than 10,000 square feet of a two acre lot may be cleared. For lots larger than two acres: 10,000 square feet for the first two acres may be cleared. Additional land clearing should require a special permit. Agricultural uses and settlement areas are exempt. Clearing should not occur within 100 feet of the river or 50 feet of the side lines or road except to provide access. Tree thinning techniques may be utilized to open scenic vistas, but not clear-cutting.

(h) Maximum building height: The maximum building height should be 35 feet. Watertowers, church steeples, and silos are exempt. The purpose of this restriction is to prevent the development

of highly visible highrise structures within the river corridor or on the bluff line.

(i) Yard requirements (except in Settlement Areas): Yard requirements should be set as a 50 foot setback from the front line (edge of the road right-of-way), 50 foot setback from back line, and 50 foot setback from each sideline. The 50 foot setback would encourage vegetative screening of development within the river corridor. The 50 foot setback for yards would not be in addition to setback from the river. Setback from mean high water requirements would take precedence where applicable.

(j) Sign restrictions: All signs should be subdued in appearance, harmonizing in design and color with surroundings. Signs should not be illuminated by neon or flashing devices. Nonconforming signs may continue such nonconformity until they are destroyed, structurally altered, reconstructed, changed or moved.

All signs should be subject to size and type limitations to be determined by municipalities and consistent with plan recommendations. Sign restrictions are established in two categories, on-premises and off-premises. Off-premises signs are those that may be seen from the river, road or highway. They are not located on the property for which the sign information is provided. They are limited to three types: public and/or safety signs or symbols, public site identification signs, and commercial directories. Commercial directories could be established at various public locations in each settlement area.

On-premises signs, which may be seen from the river, road or highway should be limited to public site identification signs and business identification signs of which there would be one allowed per property on-the-premises only and relating only to the use of these premises. Posting and trespassing signs are exempt.

The intent of the standards for signs is to allow for a reasonable number of signs that will direct the public to facilities and commercial establishments while preventing the destruction of the scenic quality of the river valley and the roads leading to and within it from a deluge of signs advertising commercial services. These standards limit the number of signs per establishment to a number which will afford the public reasonable notice of the facility or establishment while preventing the overuse of signs as a means of advertising.

(k) Animal husbandry: Animal husbandry should be allowed, but no intensive livestock operations such as feed lots would be permitted. Any type of animal husbandry or other agricultural practice that would create a significant waste disposal or other type of water quality problem would be included in this restriction.

(l) Timber harvest: Timber harvest should generally be by selective cut method. Clear cutting and the utilization of logging roads and skid trails on the steep slopes in the river valley could present an erosion and sedimentation problem and should be prohibited. In order to maintain scenic values, clear cutting should also be prohibited in areas of high visibility, as identified in the River Management Plan. However, limited clear cutting may be permitted in certain circumstances on moderate to gently sloping lands for wildlife management, reforestation to a more desirable commercial tree type, or clearing land for agricultural uses. Intensive cutting in the area within 100 feet of the river could eliminate already existing and valuable vegetative screening and should be prohibited. Timber harvest within the 100 foot buffer should only be allowed when it proves necessary for safety, vista clearing, or access. Selective harvesting of individual mature trees could be allowed within the 100 foot buffer, provided that at least 50% of the overhead canopy is maintained.

(m) Floodplain protection: No new development should be allowed within the 100-year floodplain of the Delaware River and its tributaries as delineated by appropriate methods. Unless additional, more reliable, investigations are conducted, the 1974 delineation of the 100-year floodplain by the U.S. Geological Survey on 1:24,000 maps will be utilized. Structures exempt from this requirement include: fences, docks, river access parking areas, boat ramps and structures related to agricultural use and temporary structures. Open space uses should be permitted in the floodplain.

6. Federally or State Funded or Regulated Projects.

All state and federally funded and regulated projects should be reviewed through the provisions of the National Environmental Policy Act, state and regional reviews and the A-95 review process with the full consideration of the purposes, goals, and objectives of the Wild and Scenic Rivers Act, the Upper Delaware River legislation (Pub. L. 95-625, Section 704), and these Guidelines. Wherever feasible, state and federally regulated projects should be located outside the river corridor "where it will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on October 2, 1968." (National Wild and Scenic Rivers Act, Pub. L. 90-542, Section 7(b)). In addition, any related impacts should be minimized. Examples of state and federally regulated projects follow:

(a) New highways and bridges: New highways and new bridges should be built only if there is no feasible alternative to serve the public good and all possible measures to mitigate damage to the resources of the area are taken. New improved roads should not be permitted in the scenic sections of the river. However, improvements to roads to eliminate hazards would be acceptable.

(b) Impoundments: No impoundments of the Upper Delaware River or its tributaries will be permitted within the designated river corridor, except in compliance with Section 7 of the Wild and Scenic Rivers Act. Stream improvement structures for fishery management purposes are exempt provided they do not obstruct navigation and provided that the natural character of the stream is generally maintained.

(c) Transmission/Utility Lines: Construction of new power transmission and utility lines are prohibited within the River corridor unless a proposed line is demonstrated not to have a direct and adverse effect on scenic, recreational and other values for which the area was established. This determination will be made by the Secretary of the Interior. Additionally, before the siting of power transmission and utility lines is proposed within the corridor, proponents should further demonstrate that no other feasible and prudent alternative exists and all possible means to mitigate environmental damage would be taken.

(d) Hunting and Fishing: Hunting and fishing will continue to be regulated by existing state and Federal laws. The National Park Service may designate zones where, and establish periods when, no hunting will be permitted for reasons of public safety, administration or public use and enjoyment.

E. *General Standards for River Use.*

1. Use of the surface of the Upper Delaware should be limited to that level consistent with the capacity of the river corridor to absorb use, as determined by the River Management Plan.

2. Use of land areas adjacent to the river for river related activities should be done in such a manner as to insure the protection of the recognized values of the river corridor.

3. Safety regulations governing recreational uses of the river will be applied in conjunction with the existing laws and regulations of the U.S. Coast

Guard and the States of New York and Pennsylvania.

4. It is recognized that some river uses conflict with others, but that enjoyment of the opportunities for river-related recreation must be shared on as equal a basis as much as possible by all users. The right of all users (canoeists, fishermen, swimmers, hunters, bird watchers, sightseers, etc.) to have equal opportunity to obtain maximum enjoyment from their particular use of the river and river corridor is also recognized and will be addressed in the development and implementation of the River Management Plan.

5. The existing quality and quantity of the Delaware River and its tributaries should be maintained for the protection of natural, recreational and other values for which the area was established. In addition, all existing state and Federal programs and policies should be complied with and enforced to protect the high level of water quality of the Delaware River and its tributaries and to maintain their current flow levels. This would include state land planning policies and programs as well as Federal policies and programs.

IV. Effective Date of General Guidelines

The effective date of the General Guidelines for land and water use for the Upper Delaware National Scenic and Recreational River will be October 13, 1981.

Definitions

Bluff. Any high bank or bold headland with a broad precipitous cliff face overlooking the Delaware River.

Bluff line. The edge or crest of the bluff.

Clearcutting means any cutting of all or substantially all trees over six inches in diameter at breast height over any ten year cutting cycle.

Density. High density residential development can be generally defined as exceeding an overall density of one dwelling unit per 2 acres. Moderate density would include densities of one dwelling unit for every two to five acres. Low density would include lands with a density of one dwelling unit per five acres or greater.

Floodplain refers to the 100-year floodplain of the Delaware River and its tributaries as delineated by appropriate methods. Unless additional, more reliable, investigations are conducted, the 1974 delineation of the 100-year floodplain by the U.S. Geological Survey on 1:24,000 maps will be utilized.

Mean high water line (or mark) is the average of the highest water surface elevation at a given point of the Delaware River or its tributaries, measured on an annual basis.

Primitive campgrounds are camping areas where low to moderate density camping activities are permitted, where the alteration of the site used for camping purposes is minimal, where visual and scenic values are protected, and where general road or vehicular access is either limited or restricted to emergency and maintenance purposes. Typical site development may include trail and river access to the area and use of designated rock fire rings and vault toilets. Campground sites and facilities should be screened from the river and adjacent lands as much as possible.

Recreational vehicle campgrounds are areas where moderate to high density camping activities are permitted, where general road or vehicular access is provided, and where the provision of services, including electric hook-ups, water and sanitary facilities may be provided. River access may also be provided if appropriate. Site disturbance would be generally greater than in primitive campground areas, however scenic quality should be maintained and vegetative screening used to minimize visual impacts. Typical site development may include, but not be limited to, road access, parking areas, fire grates, picnic benches, and utility hook-ups. Other recreationally associated improvements such as central showers or bath house and a childrens playground may be permitted if the activities largely serve camping visitors and are in harmony with the overall values of the area.

River-related recreational facilities are those commercial and/or public recreational uses which are principally oriented toward river users. Such uses shall include, but not be limited to, boat accesses and bases, campgrounds, swimming areas, comfort stations, and other facilities which offer an array of recreational activities and services; but should not include motels, hotels, restaurants, amusement parks and the like. Small services such as a snack stand, bait and tackle shops, etc. may also be allowed if they are part of a larger recreational facility.

Settlement areas are existing thickly settled areas or hamlets where population and structures are concentrated. In these areas, where a pattern of more intensive land use has developed and adequate utilities and infrastructure are available, additional commercial, residential, light industrial, and institutional uses may be accommodated. Within the corridor, settlement areas are limited to: Equinunk, Long Eddy, Hankins, Callicoon, Damascus, Cochecton, Milanville, Narrowsburg, Lackawaxen, Barryville, Shohola, Pond Eddy and Millrift. In general, settlement areas have an existing density of more than one dwelling unit or structure per two acres. Settlement areas will be mapped and identified in the River Management Plan.

[FR Doc. 81-26541 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

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).

I. Parent corporation and address of principal office: Blossburg Oil Company, 248 Main Street, Blossburg, PA 16912.

II. Wholly-owned subsidiary which will participate in the operations, and State of incorporation:

Subsidiary and State of Incorporation

Mase Transporation Co., Inc., Pennsylvania

1. Parent Corporation and address of principal office: Economics Laboratory, Inc., Osborn Building, 370 Wabasha Street, St. Paul, MN 55102.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Economics Laboratory, Inc.—Delaware.

(ii) Detergent Services, Inc.—Delaware.

(iii) Economics Laboratory International, Ltd.—Delaware.

(iv) Magnus Maritec International, Inc.—Delaware.

(v) Maritec Corporation—New Jersey.

(vi) Maritec International, Inc.—New Jersey.

(vii) Apollo Technologies—Delaware.

(viii) Apollo Chemical, Ltd. (U.K.)—Delaware.

(ix) Apollo Marine, Inc.—Delaware.

(x) Whippany Corporation—New Jersey.

(xi) Apollo Chemical Corporation—Delaware.

(xii) E.L. International Sales Corp.—Delaware.

(xiii) Solilax Caribbean, S.A.—Delaware.

(xiv) EL Manufacturing Corporation—Delaware.

(xv) EL Caribbean—Delaware.

(xvi) ELSO, Inc.—Delaware.

1. Parent corporation and address of principal office: General Signal Corporation, High Ridge Park, Stamford, Connecticut 06904.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(a) Sola Basic Industries, Inc. (Wisconsin).

(b) OZ/Gedney Company (Connecticut).

(c) Edwards Company, Inc. (Connecticut).

(d) General Signal Mfg. Corp. (Delaware).
(e) General Signal Industries, Inc. (Delaware).
(f) Electroglas, Inc. (California).
(g) Tapco International, Inc. (Delaware).
(h) Telecommunications Technology, Inc. (California).
(i) Xynetics, Inc. (Delaware).
(j) Blue M Electric Company (Delaware).
(k) Micro Automation, Inc. (Delaware).

I. Parent corporation and address of principal office: Hershey Foods Corporation, 19 East Chocolate Avenue, Hershey, Pennsylvania 17033.

II. Wholly-owned subsidiaries which will participate in the operations, and State(s) on incorporation:

Subsidiary and State(s) of Incorporation

(1) Friendly Ice Cream Corp.—Massachusetts.
(2) San Giorgio—Skinner, Inc.—Delaware.
(3) Cory Food Services, Inc.—Delaware.
(4) Y&S Candies, Inc.—New York.
(5) Hershey (Bahamas) Limited—Bahamas.
(6) Hershey International Sales Corporation—Delaware.
(7) Hershey International Ltd.—Delaware.
(8) Friendly Restaurants, Inc.—Delaware.
(9) Friendly Family Restaurants of Manchester, Inc.—Vermont.
(10) CSH Foods, Inc.—Delaware.

1. Parent corporation and address of principal office: L. Knife & Son, Inc., Sandri Drive, Plymouth, MA 02360.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Seaboard Products, Inc., Zero Beechwood Place, Danvers, MA 01923.
(b) Vintners Group Ltd., Inc., Cumberland Mini-Mall, Rte. 44, Plymouth, MA 02360.
(c) Vacationland Soft Drink Distributing Inc., Sandri Drive, Plymouth, MA 02360.
(d) Gambrinus Trucking Co., Inc., Sandri Drive, Plymouth, MA 02360.
(e) L. Knife Realty Trust, Sandri Drive, Plymouth, MA 02360.
(1) Parent corporation and address of principal office: Porter Paint Co., 400 South 13th Street, Louisville, Kentucky 40203.
(2) Wholly-owned subsidiary which will participate in the operations and State on incorporation: Porter Express Company, 400 South 13th Street, Louisville, Kentucky 40203.

I. Parent Corporation and address of principal office: Seaway Food Town, Inc., 1020 Ford Street, Maumee, Ohio 43537.

II. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

1. V.F., Inc. dba Valley Farm Foods—Ohio.
2. Gruber's Food Town, Inc.—Michigan.
3. Tracy & Avery Food Town, Inc.—Ohio.
4. Northern Distributing Co.—Ohio.
5. T & A Marts, Inc.—Ohio.

I. Parent corporation and address of principal office: Winston Industries, Inc., P.O. Box 347, Double Springs, AL 35553.

II. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. Winston Carriers, Inc., P.O. Box 347, Double Springs, AL 35553.
B. Klassen & Bronze Limited, 73 Hincks Street, New Hamburg, Ontario, Canada N0B 2G0.
C. National Key Company of Canada Limited, 73 Hincks Street, New Hamburg, Ontario, Canada N0B 2G0.
D. Metl-Stik Limited, 3 Petersfield Road, Whitehill Bordon, Hants, England GU 35 9 AW.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26634 Filed 9-10-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 81-24284 appearing at page 42361 in the issue for Thursday, August 20, 1981, make the following correction:

On page 42364, in the first column, under Mc 14043 (Sub-15), application of Apple House, Inc., in the first line, "Mc 14043 (Sub-15)" should have read "MC 140243 (Sub-15)."

BILLING CODE 1505-01-M

[Released Rates Application No. MC-1521]

Motor Carriers; Released Rates Applications

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: National Motor Freight Traffic Association, Inc., seeks authority to further amend Released Rates Order No. MC-894, applying on machines, systems or devices, data processing, or units that form components of data processing machines, systems or devices, or parts thereof, noi, classification ratings, by eliminating the expiration date and reporting requirements in their entirety.

ADDRESS: Anyone seeking copies of this application should contact: Mr. Patrick McEligot, Law Offices, Rea, Cross & Auchincloss, 700 World Center Building, 918 16th Street, N.W., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Mr. Harlo Gillgam, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275-7447.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly section 20(11) of the Interstate Commerce Act, to publish released value provisions in the NMFC, in tariffs which publish exceptions to the NMFC, and in tariffs which publish specific and/or general commodity rates.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26533 Filed 9-10-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; 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 transportations 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.

Agatha L. Mergenovich,

Secretary.

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. OPI-256

Decided: September 3, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC157870, filed August 24, 1981. Applicant: CLAYTON COURIER SERVICE, INC., d.b.a., NATIONAL COURIER SYSTEMS, INC., 7730 Carondelet Avenue, St. Louis, MO 63105. Representative: B. W. Latourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *shipments weighing 100 pounds or less* if tranported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 157920, filed August 25, 1981. Applicant: RONALD L. MEYER, d.b.a. RONNY MEYER; 2245 South King St., Denver, CO 80219. Representative: Ronald L. Meyer (same address as applicant); (303) 934-6679. 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.

MC 157921, filed August 26, 1981. Applicant: BELT'S WHARF WAREHOUSES, INC., 936 Fell St., Baltimore, MD 21231. Representative: Robert K. Goren, Suite 1025, 1875 Eye St., N.W., Washington, D.C. 20006, (202) 463-6400. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OPY-4-355

Decided: September 3, 1981.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams. (Member Williams not participating.

MC 157837, filed August 21, 1981. Applicant: JIM WATERS, Rt. 1, Box 25, Conover, NC 28613. Representative: Jim Waters (same address as applicant); (704) 464-1373. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions* by the owner of the Motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-4-357

Decided: September 1, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 42487 (Sub-1046), filed August 21, 1981. Applicant: CONSOLODATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representatives: V. R. Oldenburg, P.O.B. 3062, Portland, OR 97208, (503) 226-4692. Transporting *general commodities* (except classes A and B explosives), between Cloverly, CO, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack this authority with existing regular route authority in Sub 1015X. The purpose of this application is to substitute motor carrier service for completely abandoned rail carrier service.

[FR Doc. 81-26596 Filed 9-10-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 160]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: September 8, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 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 USC 10922(h).

In the absence of 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 383 (Sub-1)X, filed August 28, 1981. Applicant: EMERY AIR FREIGHT CORPORATION, Old Danbury Road, Wilton, CT 06897. Representative: R. Bruce Keiner, Jr., 1100 Connecticut Avenue, N.W., Washington, DC 20036. Applicant seeks to remove restrictions in its lead permit to eliminate the restriction limiting transportation to traffic having an immediately prior or subsequent movement by air.

MC 37918 (Sub-15)X, filed August 19, 1981. Applicant: DIRECT WINTERS TRANSPORT; LIMITED, 2 Tippet Road, Downsview, Ontario, Canada M3H 5X3. Representative: William J. Hirsch, P.C. 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. Applicant seeks to remove restrictions in its lead and Sub-Nos. 5, 7, 8, 10, 11 and 13 certificates to: (1) broaden commodity descriptions as

follows: (a) in the lead and all Subs from general commodities with various exceptions to "general commodities, except classes A and B explosives"; (b) in the lead from fresh fruit to "food and related products;" (2) authorize service to all intermediate points in connection with regular-route authority in Sub-No. 8; (3) remove foreign commerce restrictions in Sub-Nos. 7, 8 and 13; (4) authorize two-way service in the lead between Holley, NY, and the US–CD Boundary line at Niagara Falls, NY: (5) remove "for pick up only" restriction in the lead; (6) broaden territorial description by changing city-wide to county-wide authority as follows: (a) in the lead, Detroit, MI, to Wayne, Oakland, and Macomb Counties, MI; and "points within 8 miles of Detroit" to Macomb, Oakland, and Wayne Counties, MI; (b) in Sub-No. 7, Wellesley Island, NY, Jefferson County, NY; (c) in Sub-No. 13, Port Huron, MI, to St. Clair County, MI; (7) broaden service to off-route points to include entire county as follows: in Sub-No. 11 from Romeo, MI, to MaComb County, MI; in the lead, from points within 25 miles of Holley, NY, to Monroe, Genesee, Niagara, Livingston and Orleans Counties, NY; (8) in Sub-No. 5 replace plantsite limitation with Wayne County, MI; and (9) in irregular route authorities, expand ports of entry as follows: (a) in Sub-No. 5 from Detroit, MI, to ports of entry located in MI; (b) in Sub-No. 7, from Thousand Island International Bridge, Jefferson County, NY, to ports of entry located in NY; and (c) in Sub-No. 13, from Port Huron, MI, to ports of entry located in MI.

MC 40326 (Sub-2)X, filed August 31, 1981. Applicant: CINTI TRUCKING, INC., 2174 Seymour Avenue, Cincinnati, OH 45212. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and Sub-No. 1 certificate to (1) broaden the commodity description to "general commodities (except classes A and B explosives)" from general commodities (with the usual exceptions and such bulk commodities as are transported in dump trucks and unloaded by dumping) in the lead and general commodities with the usual exceptions in Sub-No. 1 and (2) change city to county-wide authority from Harrison, IN to Dearborn County, IN in the lead.

MC 106074 (Sub-184)X, filed August 24, 1981. Applicant: B & P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, Forest City, NC 28043. Representative: Larry Lawing, (Address same as above). Applicant seeks to remove restrictions in its Sub-No. 157F certificate to authorize radial service between points in numerous States located in the eastern portion of the U.S.

MC 108185 (Sub-56)X, filed August 24, 1981. Applicant: JACK COLE-DIXIE HIGHWAY COMPANY, 215 South 11th St., Minneapolis, MN. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. Applicant seeks to remove restrictions in its Sub-No. 51F certificate to (1) broaden the commodity description from tractors, agricultural machinery and agricultural implements, industrial and construction machinery and equipment and parts, attachments and accessories for the commodities above to "transportation equipment and machinery;" (2) remove exception to tractors with vehicle beds, bed frames or fifth wheels in part (1); (3) change city to county-wide authority: from Detroit, MI to Wayne County, MI, and (4) change one-way to radial authority.

MC 113158 (Sub-54)X, filed September 2, 1981. Applicant: TODD TRANSPORT COMPANY, INC., Box 158, Main Street, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Applicant seeks to remove restrictions in its Sub-Nos. 47F and 49F certificates to (1) broaden the commodity description to "food and related products" from foodstuffs (except frozen foods and commodities in bulk), in Sub-No. 47F and to "food and related products and materials, equipment, and supplies used in the manufacture and distribution of food and related products" from foodstuffs and materials, equipment, and supplies used in the manufacture and distribution of foodstuffs, in Sub-No. 49F, and (2) replace one-way authority with radial authority, in Sub-No. 47F.

MC 115331 (Sub-554)X, filed August 31, 1981. Applicant: TRUCK TRANSPORT INCORPORATED, 11040 Manchester Road, St. Louis, MO 63122. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. Applicant seeks to remove restrictions in its Sub-No. 551 certificate to (1) remove the exception to commodities in bulk in its general commodities authority.

MC 117201 (Sub-53)X, filed May 4, previously noticed in the Federal Register of May 25, 1981, republished as follows: Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. As is pertinent here, applicant seeks to broaden its lead and Sub-Nos. 1 and 2 certificates by (1) broadening the commodity descriptions to such commodities as are dealt in by grocery, food and variety business establishments (except commodities in bulk) from wine and malt beverages in Sub-No. 1; such commodities as are dealt in by grocery and food business houses (except commodities in bulk and those moving in vehicles equipped with mechanical refrigeration) in Sub-No. 2; (2) removing the restrictions limiting transportation to traffic originating at or destined to named facilities in Sub-Nos. 1 and 2, (3) replacing one way with radial authority. This Board previously broadened its permit but failed to encompass the necessary revisions of the certificate. The purpose of this republication is to reflect applicant's request and to request comments from interested parties.

MC 118180 (Sub-14)X, filed August 27, 1981. Applicant: ARCTIC EXPRESS, INC., P.O. Box 180175, Dallas, TX 75228. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Applicant seeks to remove restrictions in its Sub-No. 1 certificate to (1) broaden the commodity description from (a) meats, meat products, and meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, meals with or without other ingredients in hermetically sealed containers, and foodstuffs to "food and related products"; and (b) laundry products to "chemicals and related products"; (2) eliminate the facility limitations; (3) change city to county-wide authority: Oklahoma City, OK to Oklahoma County, OK; Dallas, TX to Dallas County, TX; Fort Worth, TX to Tarrant County, TX; Liberal, KS to Seward County, KS; Hereford, TX to Deaf Smith County, TX; Fort Madison, IA to Lee County, IA; Shreveport, LA to Caddo Parish, LA; Marshall, TX to Harrison County, TX; Longview, TX to Gregg County, TX; Kilgore to Gregg County, TX; Gladewater, TX to Gregg County, TX; Henderson, TX to Rusk County, TX; Tyler, TX to Smith County, TX; Jacksonville, TX to Cherokee County, TX; Palestine, TX to Anderson County, TX; Overtone, TX to Rusk County, TX; Arp, TX to Smith County, TX; Ironton, TX to Cherokee County, TX; Carlisle, TX to Rusk County, TX; Athens, TX to Henderson County, TX; (4) replace one-way with radial authority; and (5) remove the following restrictions; "except hides and commodities in bulk, in tank vehicles", "to the distribution of pool car and pool truck shipments", "in vehicles equipped

with mechanical refrigeration", and against service to Houston, TX.

MC 119366 (Sub-6)X, filed September 1, 1981. Applicant: MOTOR CITY CARTAGE COMPANY, 175 12th Street, Detroit, MI 48216. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Applicant seeks to broaden the commodity description in its Sub-No. 4F certificate from meats, meat products, meat byproducts, dairy products, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and frozen foods to "food and related products."

MC 123272 (Sub-54)X, filed August 13, 1981. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Applicant seeks to remove restrictions in its lead and Sub-Nos. 7, 12, 13, 14, 15, 16, 17F, 18F, 19F, 20F, 21F, 22F, 23F, 24, 25F 26F, 27F, 28F, 29F, 30F, 31F, 32F, 33F, 34F, 36F, 37, 39F, 41F, 42F, 43F, 46F, 47F, 48F, and 51 certificates. It seeks (1) to broaden commodity descriptions to: "food and related products" from malt beverages, manufactured or processed animal and poultry food, canned processed and manufactured foods, and canned goods in the lead certificate, from canned goods in Sub-No. 14, from baking powder in Sub-Nos. 16 and 34, from canned, bottled and preserved foodstuffs in Sub-Nos. 15 and 51, from animal feed and feed ingredients in Sub-Nos. 20 and 21, from foodstuffs in Sub-Nos. 24, 27, 32, 36, 37, and 42, from sugar in Sub-No. 29, from cheese and cheese products in Sub-No. 33, and from malt beverages in Sub-No. 47; and, in the lead certificate as follows: (a) "waste or scrap materials not identified by industry producing" from waste and salvage materials and metals, waste scrap and salvage materials, and asbestos scrap, (b) "rubber and plastic products" from junk and scrap rubber, (c) "petroleum, natural gas and their products, and coal and coal products" from liquid or solid asphalt, mastic blocks, fiberboard or pulpboard boards impregnated with asphalt, asphalt composition paving or flooring boards, eave filler strips, flashing blocks, shingles, siding, planks and floor tile, asphalt or asphalt base paving joints, roofing pitch, roof coating, roofing cement, roofing tar, composition or prepared roofing, and wood preservatives, (d) "transportation equipment" from automobile body panels, fiberboard, (e) "pulp, paper and related products" from board, wall, fiberboard, pulpboard or strawboard, carpet lining paper, bitumized fiber conduits, fiberboard cartons (knocked down), and empty fibreboard cartons, (f) "clay, concrete, glass or stone products" from asbestos wall board, composition or asbestos cement, tile cement, magnesia cement, insulating materials, millboard, mineral wools, mortar or cement, cement pipe, ridge rolls, asbestos shingles, shorts, and siding, (g) "textile mill products" from burlap, carpet lining, cotton cloth saturated, (h) "metal products" from tin roofing caps, metal clamps, metal fasteners, nails and tin straps, (i) "chemicals and related products" from furnace cement, asphaltum and coal tar paint, and fertilizer, (j) "chemicals and related products, and petroleum or coal products" from creosote, (k) "textile mill products, pulp, paper and related products, and petroleum or coal products" from building or roofing felt, and paper or fabric felts, (l) "pulp, paper and related products, and petroleum or coal products" from asbestos, building, roofing or sheathing paper, (m) "pulp, paper and related products, petroleum or coal products, and clay, concrete, glass or stone products" from sheathings, (n) "machinery, metal products, pulp, paper and related products, rubber and plastic products, and clay, concrete, glass or stone products" from dairy supplies and equipment including empty glass bottles, jugs, trisodium alkalies and cullet, (o) "metal products, and clay, concrete, glass or stone products" from nails, sheet metal and sheet metal roofing, and roofing materials, and (p) "metal products, and lumber and wood products" from pallets, and empty pallets; Sub-No. 7, "clay, concrete, glass or stone products, and pulp, paper and related products" from bottles, jars and closures; Sub-Nos. 12, 23, 43, 46, and 48, "clay, concrete, glass or stone products" from clay and clay products, from ground clay floor sweeping compounds and absorbents, from glass containers, and from ground limestone; Sub-Nos. 13 and 41, "rubber and plastic products" from plastic and plastic-coated articles, and from plastic bottles; Sub-Nos. 18 and 30, "clay, concrete, glass or stone products, pulp, paper and related products, and lumber and wood products" from glass containers, cartons and carton parts, and pallets, and from glass containers, materials and supplies used in the packing and distribution of glass containers, and empty pallets; Sub-Nos. 19 and 25, "pulp, paper and related products" from paper bags, and from paper and paper products; Sub-No. 22, "clay, concrete, glass or stone products, and metal products" from glass containers and caps and covers for glass containers; Sub-No. 26, "clay, concrete, glass or stone products, metal products, rubber and plastic products, lumber and wood products, and pulp, paper and related products" from containers and container closures; and Sub-Nos. 28 and 39, "clay, concrete, glass or stone products, rubber and plastic products, and pulp, paper and related products" from bottles and bottling supplies; (2) remove "in packages," "in containers," "in bundles," and "in mixed shipments with, or when accompanying shipments of, glass containers" in the lead certificate and Sub-Nos. 29 and 48; remove "except commodities in bulk" restrictions in Sub-Nos. 13, 15, 19, 20, 21, 22, 23, 26, 27, 30, 31, 32, 36, 37, and 42, and "except meats, dairy products, candy and confectioneries, and frozen foods" in Sub-No. 24; and remove the restriction against transportation of commodities in bulk, size and weight commodities, and canned goods to points in five named States in Sub-No. 24; (3) remove restrictions limiting transportation of traffic to that originating at or destined to the named facilities in Sub-Nos. 12, 14, 20, 21, 24, 27, 30, 31, 32, 37, and 41; (4) substitute two-way authority in place of one-way service, and authorize service at all intermediate points on regular routes between (a) Louisville, KY and Milwaukee, WI, and (b) St. Louis, MO and Lafayette, IN, in the lead certificate; (5) broaden the named facilities, points, and certain mileage radii to county-wide authority: lead certificate, Vigo and Delaware Counties, IN (Terre Haute and Muncie, IN); Fayette County, IL (Vandalia, IL); Kenton, Campbell, Carroll, McCracken, Henderson and Daviess Counties, KY (Covington, Newport, Carrollton, Paducah, Henderson, Owensboro, and Latonia, KY); Allamakee, Clayton, Dubuque, Jackson, Clinton, Scott, Muscatine, Louisa, Des Moines and Lee Counties, IA (points in IA within 5 miles of the Mississippi River); Jefferson and Clarion Counties, PA (Brockway and Knox, PA); Summit, Cuyahoga and Knox Counties, OH (Barberton, Cleveland, and Mt. Vernon, OH); Will County, IL (Joliet, IL); Cabell and Wayne Counties, WV (Huntington, WV); Blackford and Jay Counties, IN (Dunkirk, IN); Warren, Benton, White, Cass, Miami, Wabash, Huntington, Wells, Adams, Jay, Blackford, Grant, Howard, Carroll, Tippecanoe, Fountain, Vermillion, Parke, Montgomery, Boone, Tipton, Hamilton, Madison, Delaware,

Randolph, Clinton, Wayne, Henry, Hancock, Marion, Hendricks, Putnam, Union, Fayette, Rush, Shelby, Johnson, Morgan, Owen, Clay, Vigo, Sullivan, Greene, Monroe, Brown, Bartholomew, Decatur, Franklin, Daviess, Martin, Lawrence, Jackson, Jennings, Ripley, Dearborn, Orange, Washington, Scott, Jefferson, Switzerland and Knox Counties, IN (points in IN within 75 miles of Indianapolis, IN); Johnson, Morgan, Madison, Tipton, Miami, Wabash and Clark Counties, IN (Whiteland, Greenwood, Martinsville, Anderson, Elwood, Tipton, Peru, Wabash, and Jeffersonville, IN); Muscatine County, IA (Muscatine, IA); Dodge, Fond du Lac, Sheboygan, Brown, Waushara, Rusk, Barron and Polk Counties, WI (South Beaver Dam, Astico and points within 10 miles thereof, Brandon, Eden, Mt. Calvary, Plymouth, Green Bay, Wautoma, Ladysmith, Cumberland, Chetek, Clear Lake, Milltown, and Frederic, WI); Clark, Lewis, Marion, Ralls, Pike, Lincoln, St. Charles, St. Louis, Jefferson, Ste. Genevieve, Perry, Cape Girardeau, Scott, Mississippi, New Madrid and Pemiscot Counties, MO (points in MO on the Mississippi River); Wayne, Cabell, Mason, Jackson, Wood, Pleasants, Tyler, Wetzel, Marshall, Brooke and Hancock Counties, WV (points in WV on the Ohio River); Fulton, Hickman, Carlisle, Ballard, McCracken, Livingston, Crittenden, Union, Henderson, Daviess, Hancock, Breckinridge, Meade, Hardin, Jefferson, Bullitt, Oldham, Trimble, Carroll, Gallatin, Boone, Kenton, Pendleton, Bracken, Mason, Lewis, Greenup and Boyd Counties, KY (points in KY on the Ohio River); Madison County, IL (Alton, IL); Henderson County, KY (Henderson, KY); Wood County, WV (Vienna, WV); Randolph County, IN (Winchester, IN); Madison County, IN (Lapel, IN); Monongalia County, WV (Star City, WV); and Peoria and Tazewell Counties, IL (Pekin, IL); Sub-No. 7, Cabell and Wayne Counties, WV (facilities in Huntington, WV); Sub-No. 12, Thomas County, GA (facilities at Ochlocknee, GA); Sub-No. 13, Jackson County, IN (facilities at Seymour, IN); Sub-No. 14, Manitowoc County, WI (plantsite in Manitowoc, WI), and Wabasha County, MN (plantsite in Plainview, MN); Sub-No. 15, Jackson and Scott Counties, IN (Brownstown and Austin, IN); Sub-Nos. 16, 17, and 34, Vigo County, IN (Terre Haute, IN); Sub-No. 17, Sunflower County, MS (Indianola, MS); Sub-No. 18, Dearborn County, IN (Lawrenceburg, IN), and Marshall County, MS (Byhalia, MS); Sub-No. 19, Jackson County, IN (Seymour, IN); Sub-No. 20, Coles County, IL (facilities at Mattoon, IL); Sub-No. 21, Franklin County, OH (facilities at Columbus, OH); Sub-No. 22, Grant County, IN and Indianapolis, IN (facilities near Gas City and Indianapolis, IN); Sub-No. 23, Tippah County, MS (Ripley, MS); Sub-No. 26, Warren County, OH (Mason, OH); Sub-No. 27, Scott, Jackson, Miami, and Johnson Counties, IN (Austin, Brownstown, Converse, and Franklin, IN); Sub-No. 30, Dearborn County, IN (facilities near Lawrenceburg, IN), McCracken and Franklin Counties, KY (Paducah and Frankfort, KY), and LaSalle and Livingston Counties, IL (Streator, IL); Sub-No. 31, Cincinnati and Columbus, OH and Franklin and Hamilton Counties, OH (facilities at Cincinnati, Columbus, Springdale, Woodlawn, Blue Ash, and Whitehall, OH); Sub-No. 32, Auglaize County, OH (facilities at Wapakoneta, OH); Sub-No. 33, Olmsted County, MN (facilities near Rochester, MN); Sub-No. 37, Mercer County, OH (St. Henry, OH); Sub-No. 41, Fayette County, IL (Vandalia, IL), and Clark County, IN (Jeffersonville, IN); Sub-No. 43, Logan County, IL (Lincoln, IL); Sub-No. 47, Detroit, MI (facilities near Detroit, MI), and Wood County, OH (Perrysburg, OH); Sub-No. 48, Bartow County, GA (facilities near Cartersville, GA); and Sub-No. 51, Sibley, Big Stone and Lac Qui Parle Counties, MN (Arlington and Ortonville, MN), and Chippewa County, WI (Bloomer, WI); (6) remove restrictions prohibiting transportation of traffic between Indianapolis and Jeffersonville, IN (sheet 5); in Milwaukee and points south of Milwaukee within five miles of Lake Michigan (sheet 5); at Lafayette, Lebanon, and Seymour, IN (sheet 5); and Louisville, KY (sheet 6), in the lead certificate; remove "except AK and HI" in Sub-Nos. 19, 20, 21, 24, and 26; and remove "except points within 10 miles of the Ohio River" in the lead certificate (sheets 6 and 7).

MC 124170 (Sub-185)X, filed August 31, 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-Nos. 50, 51, and 54 certificates to (1) broaden the commodity descriptions from malt beverages in Sub-Nos. 50 and 51, and grits and malt in Sub-No. 54 to "food and related products"; (2) eliminate the facilities limitation and remove the "originating at and destined to" restriction in Sub-No. 54; (3) expand city to county-wide authority from Trenton, NJ, to Burlington, Mercer, and Hunterdon Counties, NJ, and Bucks and Montgomery Counties, PA, in each certificate; (4) replace one-way with radial authority; and (5) remove the "except commodities in bulk, in tank vehicles" restriction in Sub-No. 54.

MC 124802 (Sub-20)X, filed August 24, 1981. Applicant: ACE MOTOR FREIGHT, INC., R.D. #2, Summerville, PA 15864. Representative: Andrew C. Womeldorf II (same address as applicant). Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 2, 4, 6, 7, 8, 10, 11, 13, 15, 17F and 18F certificates and E1, E2, E3, E4, E5, E6, E7, E8, E11, E12, E13, E14, E15, E16, E17, E18, E19, E20, E21, E22, E23, E24 E25, E26, E27, E28, E29, E30, E31, E32, E33, E34, E35, E36, E37, E38, E39, E40, and E41, letter notices to (A) broaden its commodity descriptions (1) in the lead and Sub-Nos. 1, 4, 6, 8, 10, 11, 18F, E1, E2, E3, E4, E5, E6, E7, E8, E11, E12, E13, E14, E15, E16, E17, E18, E19, E20, E21, E22, E23, E24, E25, E26, E27, E28, E29, E30, E31, E32, E33, E34, E35, E36, E37, E38, E39, E40, and E41, to "clay, concrete, glass or stone products", from brick, firebrick, refractory products, ground fire clay, structural tile, clay products, dry raw materials and materials used or useful in the manufacturing, installation, or distribution of clay and refractory products; (2) in Sub-No. 2, to "pulp, paper and related products," from paper and paper cartons; (3) in Sub-No. 7, to "metal products", from cast iron soil pipe and fittings; (4) in Sub-Nos. 13, 15 and 17F, to "coal and coal products", from coal; (B) remove facilities restrictions at and/or replace (1) in the lead, Sub-Nos. 1, 4, and 6, Summerville, PA with Jefferson County, PA; (2) in Sub-No. 2, Canton, OH with Stark County, OH; Summerville, PA with Jefferson County, PA; (3) in Sub-No. 7, Bridgeton, NJ with Cumberland County, NJ; (4) in Sub-Nos. 8 and 10, Porter Township, PA with Clarion County, PA; (5) in Sub-No. 10, Porter Township, PA with Clarion County, PA; Summerville, PA with Jefferson County, PA; (6) in Sub-No. 11, Columbiana, OH with Columbiana County, OH; Frostburg, MD with Allegany County, MD; (7) in Sub-No. 18F, Lewis Rn Run, PA with McKean County, PA; Summerville, PA with Jefferson County, PA; (C) change one-way to radial authority in all of the above sub-numbers; (D) remove (1) the commodities in bulk, in dump vehicles, and size and weight restrictions wherever they appear; (2) in Sub-No. 1, restriction against the transportation of fly ash; (3) in Sub-No., 11, restriction against transportation of traffic from Yellow Creek Township, Columbiana County, OH.

MC 138351 (Sub-3)X, filed September 2, 1981. Applicant: DENIS & ROBERT TRANSPORT, INC., 787 Denison Quest, Granby, Quebec, Canada J2G 8C6. Representative: David M. Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Applicant seeks to remove restrictions in its Sub-No. 2 MIF permit to (1) broaden the commodity description from paper, paper products, materials used for packing, parts and supplies used in the maintenance and repair of packing machinery, and materials, supplies and equipment used in the printing of paper, to "such commodities as are dealt in by manufacturers or distributors of paper, paper products, printed matter, packing and packaging materials, machinery, and related products"; and (2) broaden the territorial description to between points in the United States, under continuing contract(s) with named shippers.

MC 138701 (Sub-7)X, filed August 26, 1981. Applicant: G. D. & K. INC., 500 West Main Street, Wyckoff, NJ 07481. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Applicant seeks to remove restrictions in its lead permit to broaden the territorial description to between points in the United States under continuing contract(s) with a named shipper.

MC 142239 (Sub-9)X, filed September 2, 1981. Applicant: NEBRASKA COAST, INC., Rural Route No. 1, Box 110, Neola, IA 51559. Representative: James F. Crosby, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-No. 6 permit by (1) removing restrictions of "hides" and "commodities in bulk," (2) broaden the commodity description from meats, meat products, meat byproduts, and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, to "food and related products", (3) remove the facilities limitation, and (4) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper.

MC 145058 (Sub-3)X, filed August 26, 1981. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., North Carolina Hwy., No. 220 South, Post Office Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th Street, N.W., Suite 1000, Washington, D.C. 20036. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) broaden the commodity description to "general commodities, except classes A and B explosives" from general commodities, with exceptions; (2) authorize radial, county-wide authority to replace existing one-way, facilities or city-wide authority: between points in Wade and Davidson Counties, NC (for facilities at High Point and Raleigh, NC) and Washington County VA (for Abingdon, VA), and, points in 22 States.

MC 145765 (Sub-13)X, filed August 31, 1981. Applicant: WIEST TRUCKLINE, INC., Rural Route #2, Jamestown, ND 58401. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Ten South Fifth Street, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its MC 135965 Sub-Nos. 2, 3, 4, 5 and 6 permits to (1) broaden the commodity description to "machinery and metal products" from iron and steel articles, agricultural machinery and implements, parts and attachments, prefabricated metal buildings, plow sweeps, plow shovels, and plow chisels and (2) broaden the territorial description to between points in the U.S. under continuing contract(s) with named shippers.

MC 146890 (Sub-40)X, filed September 1, 1981. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN, CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th Street, NW, Washington, D.C. 20001. Applicant seeks to remove restrictions in its Sub-Nos. 5F, 17F, and 24F certificates to (1) broaden the commodity descriptions from (a) glass products, metal products, plastic products, clay and clay products, feldspar, talc, molds and machinery used in the manufacture of glass products, (and plastic articles and metal articles in Sub-No. 24F) bottle coating systems, parts, accessories, materials, equipment, and supplies used in the manufacture and distribution thereof, to "clay, concrete, glass, or stone products, metal products, rubber and plastic products, ores and minerals, and machinery and materials, equipment, and supplies used in the manufacture and distribution thereof" in all three Sub-Nos.; (2) delete plantsite restrictions in all three Sub-Nos.; (3) delete the exceptions against service to AK and HI in all referenced authorities; (4) delete the in bulk restrictions in Sub-Nos. 5, and 17; (5) broaden cities to counties: (a) Flat River, MO, to St. Francois County, MO, in Sub-No. 5; (b) Centralia, IL, to Marion County, IL; and (c) Springfield, KY, to Washington County, KY.

MC 148281 (Sub-18)X, filed August 21, 1981. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Road, Whittier, CA 90601. Representative: David B. Rosenman, Suite 315, 1315 South Beverly Drive, Beverly Hills, CA 90212. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1F, 2F, 3F, 8F, 9F, 10F, and 12F certificates to (A) broaden the commodity descriptions to; lead certificate, "automobile parts, automobile supplies, and accessories" from automobile supplies; Sub-Nos. 1 and 10, "building materials" from ceramic tile and materials, equipment and supplies used in its installation; Sub-No. 2, "chemicals and related products" from chemicals; Sub-No. 3, "bakery products" from bakery products, and materials, equipment and supplies used in their manufacture and distribution; Sub-No. 9, "rubber and plastic products" from plastic containers; (B) remove "except in bulk" restrictions in all certificates; (C) remove "originating at or destined to" restrictions in the lead and Sub-Nos. 2, 3, 8, and 10; and (D) broaden the territorial descriptions to authorize county-wide service in place of the named points and facilities: lead certificate, Collin, Rockwall, Kaufman, Ellis, Tarrant, Dallas and Denton Counties, TX (Dallas, TX), and Elkhart County, IN (facilities in Elkhart, IN); Sub-No. 1, Los Angeles County, CA (Long Beach and Torrance, CA), Multnomah County, OR (Milwaukee, OR), and King, Snohomish and Kitsap Counties, WA (Seattle, WA); Sub-No. 2, Calcasieu Parrish, LA (Lake Charles, LA), and Summit, Medina, Portage, Stark, Wayne, Cuyahoga, Lake and Lorain Counties, OH (Barberton, Akron, and Cleveland, OH), and Jefferson and Harris Counties, TX (Beaumont and La Porte, TX), and Wetzel and Tyler Counties, WV (Natrium, WV); Sub-No. 3, Allegheny County, PA (Carnegie, PA), and King County, WA (Seattle, WA); Sub-No. 9, Pierce County, WA (Tacoma, WA); Sub-No. 12, Boulder County, CO (Boulder, CO), Scott, Polk, Dallas and Warren Counties, IA (Davenport and Des Moines, IA), St. Charles, St. Louis and Jefferson Counties, MO, St. Louis, MO, and Monroe, Madison and St. Clair Counties, IL (St. Louis, MO), Trumbull County, OH (Warren County, OH), and Salt Lake County, UT (Salt Lake City, UT).

MC 148396 (Sub-3)X, filed August 24, 1981. Applicant: ALLSTATE TRANSPORT, INC., 2250 Occidental South, P.O. Box 24185, Seattle, WA 98124. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. Applicant seeks to remove restrictions in its Sub-No. 2 certificate (1) to broaden the commodity description from general commodities (with exceptions) to "general

commoditis (except classes A and B explosives)", (2) to remove the restriction "in containers or trailers", and (3) to remove the restriction to traffic having prior or subsequent movement by rail or water.

MC 152332 (Sub-2)X, filed August 21, 1981. Applicant: INTERCOASTAL WAREHOUSE CORPORATION OF LOUISIANA, P.O. Box 547, Westwego, LA 70094. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Applicant seeks to remove restrictions in its Sub-No. 1 certificate to (1) remove exceptions from its general commodity authority except classes A and B explosives; and (2) remove the restriction which limits service to traffic having a prior or subsequent movement by water, rail or motor carrier.

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[Volume No. OPY-3-160]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: September 3, 1981.

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.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

Agatha L. Mergenovich,

Secretary.

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.

MC 44494 (Sub-5), filed August 21, 1981. Applicant: COMMANDER HORSE TRANSPORT CO., INC., Box M, The Plains, VA 22171. Representative: G. A. Horkan, Jr., Route 1, Box 34, Upperville, VA 22176, (703) 592-3252. Transporting *horses* other than ordinary, and *personal effects of attendants*, between points in KY, VA, WV, MD, DE, NY, PA, NJ, NC, SC, OH, NH, MA, RI, FL, CT, MI, IL, TN, GA, AL, MS, LA, AR, VT, IN, TX, OK, MO, and DC.

MC 70294 (Sub-1), filed August 24, 1981. Applicant: CHARLESTON TRANSFER, P.O. Box 36, Charleston, AR 72933. Representative: James M. Duckett, 221 W. Second, Suite 411, Little Rock, AR 72201, (501) 375-3022. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Charleston, AR and Paris, AR, over AR Hwy 22.

MC 89084 (Sub-9), filed August 24, 1981. Applicant: INTERSTATE HEAVY HAULING, INC., P.O. Box 20536, Portland, OR 97220. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226-3775. Transporting *machinery*, between points in OR and WA, on the one hand, and, on the other, points in the U.S.

MC 104654 (Sub-169), filed August 27, 1981. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. N.W., Washington, D.C. 20004, (202) 628-4600. Transporting *commodities in bulk*, between points in the U.S.

MC 105154 (Sub-13), filed August 24, 1981. Applicant: TETON STAGE LINES, INC., Route 5, Box 402, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in Bannock, Bingham, Caribou, Bear Lake, Oneida, Franklin, and Bonneville Counties, ID, on the one hand, and, on the other, points in the U.S.

MC 115374 (Sub-1), filed August 25, 1981. Applicant: EMSLIE BROS., LTD., 2186 Hymus Blvd., Dorval, Quebec, Canada H9P IJ7. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103, (413) 732-1136. Transporting *such commodities* as are dealt in by manufacturers and distributors of stone and stone products, between points on the International Boundary line between the U.S. and Canada in ME, NH, NY and VT, on the one hand, and, on the other, points in CT, ME, MA, NH, NY, RI, and VT.

MC 115944 (Sub-12), filed August 26, 1981. Applicant COLORADO PACIFIC TRUCKING, INC., d.b.a. COLPAC, INC., 5080 McIntyre St., Golden, CO 80401. Representative: Ivan L. Nielson (same address as applicant), (303) 425-8645. Transporting *food and related products*, between AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

MC 116544 (Sub-253), filed August 27, 1981. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O.B. 10061, Palo Alto, CA 94303, (415) 856-0117. Transporting *tractors*, between points in the U.S., under a continuing contract(s) with Linehauler, Inc., of San Jose, CA.

MC 139835 (Sub-2), filed October 24, 1981. Applicant: K & K TRANSPORTATION CORP., 4515 North 24th Street, Omaha, NE 68110. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *such commodities* as are dealt in by chain grocery and food business houses, department stores and variety stores, between points in the U.S., under continuing contract(s) with Safeway Stores, Inc., of Oakland, CA.

MC 144695 (Sub-4), filed August 27, 1981. Applicant: N. & S. TRUCKING, INC., Route 1, Francisco, IN 47649. Representative: Robert W. Loser II, 1101 Chambers of Commerce Bldg. 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Modern Maid Food Products, Inc., of Garden City, NY.

MC 145164 filed August 26, 1981. Applicant: HAROLD N. SCHONSCHECK TRUCKING, INC., 5943 Larsen Rd. Oshkosh, WI 54901. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting (1) *plastic products*, between points in the U.S., under continuing contract(s) with New London Resin Company, a division of New London Plastics, Inc., of New London, WI, (2) *motorcycles*, between points in the U.S., under continuing contract(s) with Francis Sedlachek and R. H. Stearns, d.b.a. Honda-Suzuki House, of Oshkosh, WI, and (3) *chemicals and related products*, between points in the U.S., under continuing contract(s) with En-Gro, Inc., of Winneconne, WI.

MC 145994 (Sub-6), filed August 20, 1981. Applicant: PENGUIN POINT ENTERPRISES, INC., P.O. Box 975, Warsaw, IN 46580. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6555. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with P.V.O. International, Inc., of St. Louis, MO.

MC 147035 (Sub-6), filed August 25, 1981. Applicant: JOSEPH C. GRINGERI, d.b.a. JAYCO, 6 Huckleberry Lane Acton, MA 01720. Representative: Joseph C. Gringeri (same address as applicant), (617) 263–3589. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Bee Plastics, Fitchburg, MA; Crusader Paperboard Converting Co., Wilmington, MA, Great American Chemical Co., Fitchburg, MA, J-Von Co., Leominster, MA, Lastomerix Corp., Jefferson, MA; Lawrence Paperboard Corp./Lawrence Packaging Corp., of Lawrence, MA; Lynn Plastic Corp., of Lynn, MA; Plymouth Wire and Cable Co., of Worcester, MA, and The Prince Co., of Lowell, MA.

MC 147655 (Sub-5), filed August 25, 1981. Applicant: PAYNE, INC., P.O. Box 112, Brandy Station, VA 22714. Representative: Gary E. Thompson, 4304 East-West Highway, Bethesda, MD 20814, (301) 654–2240. Transporting *lumber and wood products*, and *metal products*, between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 149014 (Sub-5), filed August 27, 1981. Applicant: EAGLE LINES INC., P.O. Box 902, Merrimack, NH 03054. Representative: Henry Sepessy, 10 Canterbury Way, Merrimack, NH 03054, (603) 424–7030. Transporting *cooking stoves* and *heating stoves*, between points in the U.S.

MC 149244 (Sub-6), filed August 24, 1981. Applicant: PEAKE, INC., 2022 Ave. "A", Kearney, NE 68847. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304, (515) 245–2730. Transporting (1) *clay, concrete, glass or stone products*, between points in CO, IA, KS, MO, NE, SD, and WY, and (2) *chemicals and related products*, between points in Gaines County, TX, on the one hand, and, on the other, points in NE.

MC 151994 (Sub-2), filed August 25, 1981. Applicant: P.R.T., INC., 135 Wyandot Ave., Marion, OH 43302. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of food and related products, between Columbus, OH, and Louisville, KY, on the one hand, and, on the other, points in the U.S.

MC 152045 (Sub-4), filed August 24, 1981. Applicant: CASON COMPANIES, INC., d.b.a. CASON BUILDERS SUPPLY, 1880 Spartanburg Highway, Hendersonville, NC 28739. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., N.W., Washington, DC 20006, (202) 833–1170. Transporting (1) *pulp, paper and related products*, and (2) *instruments and photographic goods*, between points in the U.S., under continuing contract(s) with Kimberly-Clark Corporation, Berkley Mills, of Balfour, NC.

MC 154234 (Sub-1), filed August 24, 1981. Applicant: LAMBERT TRANSFER CO., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304, (515) 245–2730. Transporting *garden, lawn, turf and golf course care equipment, snow throwers and chain saws*, between the facilities of The Toro Company, at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 157865, filed August 24, 1981. Applicant: RODNEY DAVID AND PATRICIA ANN ROBBINS, d.b.a. Q.R.V. ENTERPRISES, 22435 Bents Rd., Aurora, OR 97002. Representative: Peter H. Glade, One SW Columbia, Suite 555, Portland, OR 97258, (503) 227–1681. Transporting *building materials*, between points in OR, WA, CA, and ID.

MC 157875, filed August 24, 1981. Applicant: EARL A. LaFAVE AND PHILOMENA LaFAVE, d.b.a. LaFAVE DISTRIBUTING, 1859 Canton Center Rd., Canton, MI 48187. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 157905, filed August 24, 1981. Applicant: RAY HARMON AND SON, INC., Route #4, Box 280, Savannah, TN 38372. Representative: Ray Harmon (same address as applicant), (901) 925–8159. Transporting *mobile homes*, between points in the U.S.

MC 157925, filed August 26, 1981. Applicant: DANNY GOUGE, d.b.a. GOUGE TRUCKING COMPANY, Route 1, Box 34, Greenmountain, NC 28740. Representative: Eric Meierhoefer, 1029 Vermont Avenue, NW., Suite 1000, Washington, DC 20005, (202) 347–9332. Transporting (1) *clay, concrete, glass or stone products*, and (2) *ores and minerals*, between points in Mitchell and Avery Counties, NC, on the one hand, and, on the other, points in the U.S.

[FR Doc. 81-26537 Filed 9-10-81; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-C-10796]

Shipments Weighing 100 Pounds or Less

Decided: August 26, 1981.

This decision finds that the term "shipment" as used in the phrase "shipments weighing 100 pounds or less," in 49 U.S.C. 10922(b)(4)(D), should be construed as "one or more packages weighing in the aggregate 100 pounds or less transported from a single consignor to a single consignee on any one day."

Warren A. Goff, for American Package Express Carriers Association, Inc.

Robert A. Hirsch, for American Trucking Associations, Inc.

Piken & Piken, P.C., for Anytime Delivery Systems, Inc., et al.
Robert A. Newell, for Archer Courier Systems, Inc.
Harold L. Reckson, for Arrow Courier, Inc.
Charles Ephraim and James F. Flint, for Brooks Armored Car Service, Inc., et al.
Lawrence Mawn, for Central Delivery Service of Washington, Inc., et al.
Alan Kahn, for Jamour, Inc., d.b.a. Quick Carrier Service, et al.
Wilmer B. Hill, for J. N. Carr Transport, Inc.

Decision

By the Commission:

The American Package Express Carriers Association, Inc. (APECA), by a petition filed on December 10, 1980, requests that this Commission institute a proceeding to promulgate rules which will incorporate language in all certificates issued pursuant to 49 U.S.C. 10922(b)(4)(D) defining the 100-pound shipments authorized as "one or more packages weighing in the aggregate 100 pounds or less transported from a consignor to a consignee on any one day."

Although the Commission declined to institute a rulemaking proceeding,[1] this declaratory order proceeding was instituted pursuant to the Administrative Procedure Act, 5 U.S.C. 554(e), to resolve uncertainty concerning the scope of permissible operations under the so-called "fitness only" application procedures discussed below. Notice of this proceeding was published in the **Federal Register** on March 19, 1981. Persons desiring to participate were invited to file comments.

A total of nine comments (some filed jointly) have been received. The American Trucking Associations and APECA urge us to adopt petitioner's proposal to interpret the phrase in accordance with language contained in the report of the House Committee on Public Works and Transportation. The rest oppose the proposed interpretation as being too restrictive.

Discussion and Conclusions

Section 5(a)(3) of the Motor Carrier Act of 1980, enacted July 1, 1980, added new 49 U.S.C. 10922(b)(4), which provides an exception from licensing provisions generally applicable to applicants for operating authority. The legislation enables carriers to perform certain types of transportation if the applicant is fit, willing, and able to do so and to comply with the statutory and administrative requirements. Under these fitness-only procedures, applicant is relieved of the other licensing evidentiary requirements, and existing carriers may not oppose an application on the grounds that it would be inconsistent with the public convenience and necessity. One form of transportation covered is the movement of "shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds."

APECA requests that this Commission clarify the phrase "shipments weighing 100 pounds or less" and the extent of operations authorized under this fitness-only category. It asserts that the statute does not define "100-pound shipments" and that the phase may be subject to a variety of interpretations. APECA notes that any number of strategies could be used artificially to create 100-pound shipments and circumvent the legislative intent. For example, a 10,000-pound LTL shipment could be billed as 100 shipments at 100 pounds each, or a carrier could cut a separate freight bill for each 100-pound lot of freight. It argues that the phrase should be defined in accordance with the report of the Committee on Public Works and Transportation of the House of Representatives which specifically sets forth congressional intent on the matter.

We agree that the proper interpretation of the phrase "shipments weighing 100 pounds or less" is as set forth in the legislative history. The House report states that, for purposes of the involved statutory section, "a shipment is one or more packages weighing in the aggregate 100 pounds or less transported from one consignor to a consignee on any one day." H.R. Rep. No. 96–1069, 96th Cong., 2d. Sess. 16 (1980).

Commentors opposing our interpretation raise two issues. First, some commentors argue that the statutory language is not ambiguous. Therefore, they contend that the Commission's traditional definition of shipments should control and that there is no need to resort to the legislative history to determine the type of operations envisioned. Second, several commentors, while agreeing that our proposed interpretation will have the desirable effect of avoiding evasion of normal licensing procedures by general freight carriers, contend that the imposition of the 100-pound daily limit to traffic handled from a particular consignor to consignee will be disruptive and impractical. They state that such a limitation will require them to keep extensive records of traffic previously transported between shippers during any day. They also argue that the limitation will bring about less efficient operations by requiring carriers to refuse shipments between certain parties after the 100-pound limit has been reached. This result, they contend, is contrary to the general philosophy of the Motor Carrier Act, which stresses competition and efficiency in the motor carrier industry.

We are not persuaded by commentors' arguments on either of these points. While the plain meaning of the statutory language is not to be ignored, resort to the legislative history is justified where the language on its face is inescapably ambiguous. *See e.g., F.T.C.* v. *Manager, Retal Credit Co., Miami Branch Office*, 515 F.2d 989, 995–96, (D.C. Cir. 1975). The purpose of this proceeding is to clarify ambiguities in the statutory language which have brought about confusion in the industry as to the type of operations authorized under the new law. We have examined the traditional Commission definition of the term "shipment," and do not believe that Congress envisioned its application to this wholly new type of operating authority described in the 1980 Act. The term "shipment" has been defined by the Commission to mean "a quantity of freight received from one shipper, at one time, at one place, consigned to one consignee at a single destination under one bill of lading." See *East Express, Inc., Ext.—High Point*, 117 M.C.C. 383, 386 (1972). Under this definition, a certificate authorizing the transportation of "shipments weighing 100 pounds or less" might be interpreted to authorize the transportation of several packages aggregating more than 100 pounds from one consignor to one consignee, as long as each package is shipped on a separate bill of lading and does not exceed 100 pounds. This interpretation could lead to evasion of normal licensing requirements and operations outside the scope of those which Congress intended under this section. In view of the uncertainty which exists concerning the meaning of the phrase, we believe that resort to the legislative history is clearly warranted in this instance.

As to commentors' contentions that our interpretation is overly restrictive, we believe that this decision is plainly consistent with the congressional intent regarding the operations envisioned under this section. The purpose of this section was clearly to encourage the entry of carriers into the field of small

[1] Since all authority granted under the fitness only category is framed in terms of the statutory language, a rulemaking proceeding to incorporate language contained in the House Committee Report into each certificate was considered to be unnecessary.

shipment transportation, but within a specifically defined area. In view of the complexity of the legislation in which the section is embodied, it is clear that "Congress did not intend a wholesale deregulation through the medium of this section. The statutory language creates a new type of commodity description to which the traditional Commission definition does not apply. The House report, however, specifically addresses the scope of operations contemplated by Congress under this section and should therefore be given full effect. We note that, if small shipment carriers find that they are unable to operate efficiently under this provision, they are not precluded from applying for appropriate authority under normal application procedures.

A review of the record in this proceeding leads us to conclude that the phrase "shipments weighing 100 pounds or less" as used in 49 U.S.C. 10922(b)(4)(D) should be interpreted in accordance with the congressional intent, as follows:

A shipment is one or more packages weighing in the aggregate 100 pounds or less transported from one consignor to a consignee on any one day. This will allow carriers receiving a certificate under this subparagrpah to transport up to 100 pounds from one consignor at any one location to one consignee at any one location on any day.

H.R. Rep. No. 96-1069, 96th Cong., 2d. Sess. 16 (1980). Thus, on any given day, a carrier holding a certificate under this fitness-only category is authorized to transport only a package or aggregate of packages weighing 100 pounds or less from one consignor to one consignee.

We find:

The term "shipment" as used in 49 U.S.C. 10922(b)(4)(D) should be interpreted as set forth above.

It is ordered:

This proceeding is discontinued.

By the Commission, Chairman Taylor, Commissioners Gresham, Clapp, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26536 Filed 9-10-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29720]

Guilford Transportation Industries, Inc.—Control—Boston & Main Corporation; Intent To File

Guilford Transportation Industries, Inc. (GTI), hereby gives notice that it will file with the Interstate Commerce Commission on or about September 21, 1981, an application under 49 USC 11343 seeking authorization to acquire control of Boston & Maine Corporation (B&M), a Class I rail carrier, through stock ownership.

GTI, a non-carrier, currently controls Maine Central Railroad Company (MEC), a Class II rail carrier.

The Reorganization Plan prepared by the trustees of the property of B&M provides for GTI to become the owner of all outstanding B&M stock when B&M emerges from bankruptcy.

GTI and B&M will prepare a traffic study based upon traffic for the 1980 calendar year.

This application will be filed under the requirements of 49 CFR Part 1111 relating to major transactions.

The Commission has waived the 3 to 6 month advance notice requirement [49 CFR 1111.4(b)] for the filing of this application.

Because this case must be decided within 180 days of its receipt under section 1164 of the Northeast Rail Service Act of 1981, the Commission cannot follow the procedural schedule of 49 CFR 1111.4. Upon receipt of the application an expedited procedural schedule will be issued.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26575 Filed 9-10-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-16F)]

Atchison, Topeka and Santa Fe Railway Co.; Abandonment on Elsinore District in Riverside County, Calif.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that on September 2, 1981, the Commission issued a certificate authorizing Atchison, Topeka and Santa Fe Railway Company to abandon its Elsinore District, Los Angeles Division, beginning at milepost 3.5, in Riverside County, CA to the end of the line at milepost 22.0 near the non-agency station of Elsinore, a total distance of 18.5 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days after an offer is made and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will be issued. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the issuance of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26537 Filed 9-10-81; 8:45 am]

BILLING CODE 1035-01-M

[Docket No. AB-19 (Sub-57F)]

Dayton & Michigan Railroad Co. and the Baltimore & Ohio Railroad Co.—Abandonment and Discontinuance of Service—Over Portions of Toledo Middleground, and Discontinuance by the Baltimore & Ohio Railroad Co. of Trackage Rights Operations Over the Consolidated Rail Corp.'s Line, All in Toledo, Lucas County, Ohio; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing Dayton and Michigan Railroad Company and the Baltimore and Ohio Railroad Company, respectively, to abandon and discontinue service of a line of railroad in Lucas County, OH, (from valuation station 25+81 to railroad valuation station 42-94), a distance of 0.32, as well as authorizing the Baltimore and Ohio Railroad Company to discontinue trackage rights operations over Consolidated Railroad Corporation's line of railroad in Lucas County, OH (from valuation station 0+0000 to

valuation station 25+81), a distance of approximately 0.49 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offer financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10950 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26535 Filed 9-10-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-26 (Sub-24F)]

Southern Railway Co. & Southern Railway—Carolina Division—Abandonment in Barnwell, Allendale, and Hampton Counties, SC; Finding

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3 has found that the public convenience and necessity permit Southern Railway Company and Southern Railway Company-Carolina Division to abandon the rail line between Blackville (milepost C-161.7) and Furman (milepost C-211/42) in Barnwell, Allendale and Hampton Counties, SC, a total distance of 48.9 miles, subject to the imposition of employee protective conditions as discussed in *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979). A certificate will be issued authorizing this abandonment unless within 15 days from the date of this publication, the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will be issued. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26536 Filed 9-10-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations 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 summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 24–28, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,024; Falcon Coat & Suit Co., Richmond Hill, NY.

TA-W-10,370; Duffey Boneless Beef Co., Inc., Carrollton, GA.

TA-W-10,397; Armca, Inc., Cass City, MI.

TA-W-10,405; J.J.J., Inc., Fraser, MI.

TA-W-10,597; North American Industries Inc., Grand Rapids, MI.

TA-W-10,691; Doris Mfg., Co., Inc., Hagerstown, MD.

TA-W-10,875; Sautter Mfg., Co., Sterling Heights, MI.

TA-W-10,900; Gary Screw & Bolt Div., A.V.C., Modulus Corp. Gary, IN.

TA-W-10,941; Dura Corp., Switches Div., Humboldt, TN.

TA-W-11,007; Tenna Corp., Warrensville Heights, OH.

TA-W-11,059; Rima Mfg., Co., Hudson, MI.

TA-W-10,602; Armco, Inc., Stainless Steel Division, North Wildwood, FL.

TA-W-11,185; High Q. Industries, Inc., Fennville, MI.

TA-W-11,554; National Steel Corp., Granite City Steel, Div., Granite City, IL.

TA-W-11,673; Automated Automation, Inc., Nobelsville, IN.

TA-W-11,808; Uni-Bond, Inc., Ferndale, MI.

TA-W-11,939; Elkhart Rubber, Inc., Elkhart, IN.

TA-W-12,273; Shirley of Atlanta, Inc., d.b.a. Barnwell Garment, Mfg., Co., Barnwell, SC.

In the following case the investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of elastomers did not increase as required for certification. U.S. aggregate imports of alkyd resins and phenolic resins are negligible.

TA-W-9,947 & 10,245; Reichold Chemicals, Inc., Cheswold, DE & Tuscaloosa, AL.

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified.

TA-W-10,515; Bechroth, Inc., Brooklyn, NY.

Aggregate U.S. imports of tanned finished sheepskins did not increase as required for certification.

TA-W-11,969; Henmur Cut, Make, & Trim, Inc., New York, NY.

Aggregate U.S. imports of men's & boy's suits did not increase as required for certification.

TA-W-12,694; Unique Leather, Inc., New York, NY.

Aggregate U.S. imports of leather coats & jackets did not increase as required for certification.

TA-W-12,196; Chris-Craft Corp., Holland, MI.

Aggregate U.S. imports of inboard or outdrive pleasure boats did not increase as required for certification.

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,221; Philadelphia, Bethlehem & New England Railroad, Bethlehem, PA.

TA-W-10,414; Clark Equipment Co., Buchanan, MI.

TA-W-10,438 & 10,439; U.S. Steel Corp., San Francisco & Los Angeles, CA.

TA-W-10,013; Ameron Steel & Wire Div., Ameron, Inc., Etiwanda, CA.

The investigation revealed that criterion (3) has not been met. With respect to bar and wire products, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to reinforcing bar, wire rod and bellets, U.S. imports did not increase as required for certification.

TA-W-11,537; United Steel and Wire Co., Battle Creek, MI.

The investigation revealed that criterion (3) has not been met. With respect to shopping carts and milk cases, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to wire shelving, the investigation revealed that sales did not decline.

TA-W-11,361; U.S. Steel Corp., Geneve Works, Provo, UT.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. Further, imports of sheet & strip declined absolutely & relatively in 1980 compared to 1971 and in the first quarter of 1981 compared to the first quarter of 1981 to the first quarter of 1980.

TA-W-9,082; New M. T. Shaw, Inc., Coldwater, MI.

The investigation revealed that criterion (1) has not been met. Workers at M. T. Shaw certified under a previous determination were eligible to apply for adjustment assistance until December 19, 1980. New M. T. Shaw's began during March 1980. Employment increased during the March–July period of 1981 compared with same period in 1980.

In the following cases the investigation revealed that criterion (2) has not been met.

TA-W-12,351; London Knitting Co., Inc., Philadelphia, PA.

TA-W-12,356; Wilshire Knitting Mills, Inc., Philadelphia, PA.

In the following case the investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,620; Beauty-Rite Cabinet, Inc., Pontiac, MI.

In the following case the investigation revealed that criterion (3) has not been met. Separations from the subject firm were seasonal in nature.

TA-W-12,347; Fashions Maid Knitting Mills, Inc., Philadelphia, PA.

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason specified.

TA-W-11,231; Varflex Corp., Rome, NY.

Aggregate U.S. imports of electrical glass insulation are negligible.

TA-W-11,168; Gallant Fashions, New York, NY.

Aggregate U.S. imports of leather coats and jackets did not increase as required for certification.

TA-W-11,963; Bay City Foundry Div., Midland-Ross Corp., Bay City, MI.

Aggregate U.S. imports of tools and tires for automotive use are negligible.

TA-W-12,691; Engel Indstries, Inc., Merrimac, MA.

Aggregate U.S. imports of shoe components, including counters are negligible.

Affirmative Determinations

TA-W-11,103, 11,103A, 11,103B and 11,196; Mr. Fine, Incorporated, Graham, TX, Jacksonville, TX, Dallas TX, and Athens, TX.

A certification was issued covering all workers of the firm separated on or after September 1, 1980.

TA-W-10,458 & 10,458; Tag-A-Long Handbags and Accessories, Inc., East Haven, CT & New York, NY.

A certification was issued covering all workers of the firm separated on or after August 31, 1980.

TA-W-11,229; Samoset Processing Co., Woonsocket, RI.

A certification was issued covering all workers of the firm separated on or after September 1, 1980.

I hereby certify that the aformentioned determinations were issued during the period August 24–28, 1981. Copies of these determinations are available for inspection in Room 10.332, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213, during normal working hours or will be mailed to persons who write to the above. address.

Dated: August 31, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-26613 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-28-M

Mine Safety and Health Administration

[Docket No. M-81-157-C]

Alabama By-Products Corp.; Petition for Modification of Application of Mandatory Safety Standard

Alabama By-Products Corporation, P.O. Box 127, Goodsprings, Alabama 35560 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its SEGCO Mine No. 1 located in Walker County, Alabama. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the mine's haulage tractors be equipped with lighting devices.

2. The coal seam normally ranges from 28 to 70 inches in height. The current seam height where mining activity exists has a maximum height of only 44 inches with generally good roof conditions and the bottom sometimes soft and oftentimes undulating. Water is

a problem, especially as it concerns the floor conditions.

3. Petitioner states that the glare from the lighting fixtures on the haulage tractors obstructs the equipment operator's view which increases the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: August 26, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26322 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-160-C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871 Martin Tower, Bethlehem, Pennsylvania 18016 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps) to its Mine No. 81 located in Nicholas County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The No. 81 mine was developed through an abandoned mine; numerous steel support beams and cribbing materials were installed for safety purposes. Installation of such materials caused a reduction of the quantity of air to provide a sufficient safety factor to continuously insure respirable dust control and methane dilution. In response to that problem, petitioner developed additional entries to supplement intake ventilation. One of these entries provided a shorter escape route to the surface.

2. Unavoidable accumulations of water necessitated the installation of pump stations and a power source in two entries. This caused the two entries to be used as return aircourses.

3. As an alternative method, petitioner proposes to ventilate these pumps and transformer in neutral air rather than cause the air ventilating each station to be directly coursed into the return airway.

4. In support of this proposed alternative method, petitioner will:

a. Cause each pump to be protected by automatic heat sensors which will activate two dry-type chemical fire suppression devices (20-pound capacity each);

b. Protect the transformer by six 30-pound dry-type chemical fire suppression devices;

c. Provide each motor with overload and short-circuit protection;

d. Provide a 30-inch metal man-door which would automatically close in the event of a fire and activate the dry-type chemical fire suppressant;

e. Install a switch interconnected into the electrical system so that the metal door, upon closing, would deenergize the power circuit at the beginning of the branch circuit.

6. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comment

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: August 24, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26323 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-164-C]

Buffalo Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Buffalo Mining Company, P.O. Box 429, Lyburn, West Virginia 25632 has filed a petition to modify the application of 30 CFR 49.6(a)(1) (mine rescue teams; requirements) to its Mark Mine located in Mingo County, West Virginia and its No. 5A and No. 9 Mines, both located in Logan County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that mine rescue stations be equipped with twelve self-contained oxygen breathing apparatus.

2. Petitioner presently has one six-member fully equipped mine rescue team formed at the mine.

3. As an alternative method, petitioner proposes that a second mine rescue team would be available at all times when miners are underground located no more than two hours travel time from the mine rescue station. This second team will be fully equipped with self-contained oxygen breathing apparatus and required accessories which its members will provide themselves.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: August 20, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26324 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-156-C]

K. C. Rogers Coal Co; Petition for Modification of Application of Mandatory Safety Standard

K. C. Rogers Coal Company, Route 1, Box 660, Harold, Kentucky 41635, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its mine located in Floyd County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be

installed on the mine's electric face equipment.

2. Petitioner states that the installation of cabs or canopies on the equipment would result in a diminution of safety for the miners affected because the canopy could strike the roof and dislodge roof support in the 39 inch undulating coal seam.

3. For this reason, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: September 1, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26825 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-41]

United Salt Corp.; Petition for Modification of Application of Mandatory Safety Standard

United Salt Corporation, 2000 West Loop South, Suite 990, Houston, Texas 77027 has filed a petition to modify the application of 30 CFR 57.4-42 (combustible materials) to its Hockley Mine located in Harris County, Texas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that no combustible materials shall be permitted within 100 feet of main and booster fans and mine openings.

2. Petitioner proposes an alternative method which involves a three-part response in the event of a fire in the structure which houses the mine opening and main fan, as follows:

a. The fan will be immediately shut off in the event of a fire to minimize the intrusion of smoke and other products of combustion into the mine itself;

b. An alarm will sound, warning all miners inside the mine to proceed to the refuge room; the refuge room is within 10 minutes from any point inside the mine;

c. A diesel blower on the surface, connected to the escape shaft, will be activated to positive-pressure ventilate the escape shaft and refuge room. The diesel blower will reverse the usual flow of air so that combustion products are not drawn into the mine.

3. Petitioner states that the proposed alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: August 26, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26819 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-42-M]

United Salt Corp.; Petition for Modification of Application of Mandatory Safety Standard

United Salt Corporation, 2000 West Loop South, Suite 990, Houston, Texas 77027 has filed a petition to modify the application of 30 CFR 57.4-62 (timber in mine entrances) to its Hockley Mine located in Harris County, Texas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that timber in mine entrances be fire retardant for at least 200 feet inside the mine portal.

2. Petitioner proposes an alternative method which involves a three-part response in the event of a fire in the structure which houses the mine opening and main fan, as follows:

a. The fan will be immediately shut off in the event of a fire to minimize the intrusion of smoke and other products of combustion into the mine itself;

b. An alarm will sound, warning all miners inside the mine to proceed to the refuge room; the refuge room is within 10 minutes from any point inside the mine;

c. A diesel blower on the surface, connected to the escape shaft, will be activated to positive-pressure ventilate the escape shaft and refuge room. The diesel blower will reverse the usual flow of air so that combustion products are not drawn into the mine.

3. Petitioner states that the proposed alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: August 26, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26820 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-43-M]

United Salt Corp.; Petition for Modification of Application of Mandatory Safety Standard

United Salt Corporation, 2000 West Loop South, Suite 990, Houston, Texas 77027 has filed a petition to modify the application of 30 CFR 57.4-43 (buildings; requirements) to its Hockley Mine located in Harris County, Texas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that buildings within 100 feet of mine openings used for intake air or designated as escapeways in exhaust air be constructed of fire-resistant materials.

2. Petitioner proposes an alternative method which involves a three-part response in the event of a fire in the structure which houses the mine opening and main fan, as follows:

a. The fan will be immediately shut off in the event of a fire to minimize the intrusion of smoke and other products of combustion into the mine itself;

b. An alarm will sound, warning all miners inside the mine to proceed to the refuge room; the refuge room is within 10 minutes from any point inside the mine;

c. A diesel blower on the surface, connected to the escape shaft, will be

activated to positive-pressure ventilate the escape shaft and refuge room. The diesel blower will reverse the usual flow of air so that combustion products are not drawn into the mine.

3. Petitioner states that the proposed alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: August 28, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26321 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-186-C]

Penn Allegh Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Penn Allegh Coal Company, Inc., Box 238A R.D. #2, Tarentum, Pennsylvania 15084 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Allegheny No. 2 Mine located in Allegheny County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petitioner is mining coal seams ranging from 42 to 52 inches in height. This clearance is reduced 1½ to 7 inches by roof control devices.

2. The petitioner states that installation of cabs or canopies on electric face equipment in its mine would result in a diminution of safety. Canopies in the reduced clearances of its mine would:

a. Impair the equipment operator's field of view;

b. Clear neither the roof of the mine nor electrical cables or master pipes suspended from the roof;

c. Impede rapid exit of the operator in case of emergency;

d. Increase operator fatigue from cramped conditions;

e. Lead the operators to attempt to operate the equipment from outside the confines of the compartment; and

f. Cause operators to hit their heads against the canopies while traveling over the undulating surfaces in the mine.

3. The petitioner further states that it has been unable to construct or obtain from manufacturers electric face equipment cabs or canopies which would not create these safety hazards in its mine.

4. For these reasons, the petitioner requests modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These coments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 13, 1981. Copies of the petition are available for inspection at that address.

Dated: September 2, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-26615 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under Section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on September 29 and 30, 1981 in Room C2318, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include a review of OSHA activities, a discussion of OSHA enforcement policies related to the construction industry, a review of accident statistics in the construction industry, a subgroup discussion of labor-management committees, a subgroup discussion of health standards, a discussion of proposed OSHA program directives that are relevant to the construction industry, an update of OSHA grants activities, and a general discussion of construction safety and health matters.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions recieved prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3635, Washington, D.C. 20210, phone (202) 523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 4th day of September, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-26614 Filed 9-10-81; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341]

Availability of Final Environmental Statement for the Enrico Fermi Atomic Power Plant, Unit No. 2

Notice is hereby given that the Final Environmental Statement (NUREG-0769) for the proposed operation of the Enrico Fermi Atomic Power Plant, Unit No. 2 has been prepared by the Commission's Office of Nuclear Reactor Regulation. The plant is owned by the Detroit Edison Company and is located on Lake Erie in Monroe County, Michigan.

The Final Environmental Statement (NUREG-0769) is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the Monroe County Library System, Reference Department, 3700 South Custer Road, Monroe, Michigan 48161. The Final Environmental Statement is also being made available at the Office of Intergovernmental Relations, Department of Management and Budget, Lewis Cass Building, P.O.

Box 30026, Lansing, Michigan 48909, and at the Southeast Michigan Council of Governments, 8th Floor, Book Building, 1249 Washington Boulevard, Detroit, Michigan 48226.

The notice of availability of the Draft Environmental Statement (DES) for the Enrico Fermi Atomic Power Plant, Unit No. 2, and requests for comments was published in the **Federal Register** on May 16, 1981 (46 FR 26958). The comments received from Federal, State and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG–0769) may be purchased, at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 4th day of September 1981.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 81–26579 Filed 9–10–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–247]

Consolidated Edison Company of New York, Inc; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR–26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment was effective August 11, 1981.

The amendment was authorized by telephone on August 11, 1981 and was confirmed by letter dated August 11, 1981. The amendment changes the Technical Specifications, one-time only, to allow continued power operation up to seven days, ending 6:00 a.m. August 17, 1981, with one safety injection pump inoperable. The amendment was authorized on an expedited basis to maintain the plant at a steady-state condition and avoid a shutdown transient shown by our evaluation to be unnecessary but required by Technical Specifications unless amended.

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 request for amendment dated August 11, 1981, (2) the Commission's letter to the licensee dated August 11, 1981, (3) Amendment No. 73 to License No. DPR–26, and (4) 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 White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2), (3) and (4) 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 4th day of September, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81–26578 Filed 9–10–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–250 and 50–251]

Florida Power & Light Co.; Notice of Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR–31, and Amendment No. 65 to Facility Operating License No. DPR–41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance and are to be fully implemented within 60 days of Commission approval in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendments add license conditions to include the Commission-approved Guard Training and Qualification Plan as part of the licenses. All security personnel shall be qualified within 2 years of this approval.

The licensee's filing, which has been handled by the Commission as an application, 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.

The licensee's filing dated August 17, 1979, and its revisions submitted by letters dated April 29, 1981 and June 23, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendment Nos. 72 and 65 to License Nos. DPR–31 and DPR–41 and (2) the Commission's related letter dated September 4, 1981. 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 Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (1) and (2) 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 4th day of September, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-26580 Filed 9-10-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment Facility Operating License No. NPF 9

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. This amendment modifies surveillance requirements of the Engineered Safety Featues Actuation System, specifically the Auxiliary Feedwater Suction Pressure-Low Pressure Instrumentation. The amendment is effective as of its date of issuance.

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 regulations. The Commission has made appropriate findings as required by the Act and the Commission's 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) Duke Power Company letter dated Ausut 12, 1981, (2) Amendment No. 3 to Facility Operating License No. NPF-9 with Appendix A Technical Specification page changes, 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 the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of Amendment No. 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 28th day of August 1981.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Branch Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 81-26617 Filed 9-10-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259 and 50-260]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 75 to Facility Operating License No. DPR-33 and Amendment No. 72 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1 and 2, located in Limestone County, Alabama. The amendments are effective within 30 days of issuance.

These amendments change the Technical Specifications to reflect modifications being made to the plant electrical distributions systems and to resolve the generic issues of adequacy of station electrical distribution system voltages and degraded grid protection for class 1E power system.

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 the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 9, 1981, as supplemented by letters dated June 8, 1981, July 2, 1981, July 31, 1981 and August 17, 1981, (2) Amendment No. 75 to License No. DPR-33 and Amendment No. 72 to License No. DPR-52 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 Athens Public Library, South and Forrest, Athens, Alabama 35611. A 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 3rd day of September 1981.

For the Nuclear Regulatory Commission.

Philip J. Polk,

Acting Branch Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-26581 Filed 9-10-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[Policy Letter 81-3]

Debarment and Suspension of Contractors; Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Amendment of proposed OFPP Policy Letter 81-3 on debarment and suspension of contractors.

SUMMARY: On July 22, 1981, OFPP invited public comment and Government agency review and comment on a proposed Policy Letter setting forth Government-wide debarment and suspension procedures and providing for the listing of offerors, contractors and subcontractors debarred, suspended or declared ineligible pursuant to such procedures or other specific statutory or regulatory authority. See FR volume 46, page 37832. By this notice, OFPP requests public and Government agency comment on amendments to that proposed policy letter relating to the disposition of cases dring the transition to the new procedures.

DATE: Written comments must be received on or before October 2, 1981.

ADDRESS: Comments are to be submitted to the Office of Federal Procurement Policy, Office of Management and Budget, Room 9013, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:
Mrs. Patricia A. Szervo, Associate Administrator for Procurement Law and Legislation, (202) 395-3501.

SUPPLEMENTARY INFORMATION: The proposed policy letter published at FR Volume 46, page 37832, would establish a uniform procedure for agencies to apply in administratively debarring or suspending those doing business or seeking to do business with the Government, and provide for a consolidated list of firms and individuals debarred or suspended under those procedures as well as pursuant to other statutory or regulatory authority. Among the matters not addressed in the letter were the effect of debarment or suspension decisions made prior to the effective date of the letter and the treatment to be accorded to a contractor when debarment has been proposed prior to the effective date of the letter, but a debarment decision is made subsequent to that date.

Added paragraph 9, Transition Provisions, provides necessary guidance in the foregoing situations. Those debarment or suspension actions taken prior to the effective date of the letter under existing administrative procedures will be limited to the scope of the exclusion provided by those procedures. One exception to this rule is that those actions, e.g., under the Davis-Bacon Act, that require a Government-wide exclusion will be given that effect. The other exception is that when one agency debars or suspends a contractor after the effective date of the letter and in accordance with its procedures, that action will be effective throughout the Executive Branch of the Government, regardless of the fact that the exclusion previously had been limited to one agency or executive department.

In cases in which debarment has been proposed but no decision has been made prior to the effective date of the letter, agencies must issue an amended notice to the contractor advising of the Government-wide exclusion that would result if debarment is imposed and permit the contractor additional time to respond in light of that effect. Thereafter, agencies would be permitted to use previously existing procedures to reach a debarment decision.

Donald E. Sowle,
Administrator.
September 8, 1981.

Proposed OFPP Policy Letter 81-3 Amendment to the Heads of Executive Departments and Establishments

Subject: Policy Guidance Concerning Government-wide Debarment, Ineligibility, and Suspension

This proposed Policy Letter is amended by the addition of paragraph 9:

9. *Transition Provisions*

a. Contractors debarred, suspended or declared ineligible prior to the effective date of this Policy Letter shall be placed on the consolidated list established pursuant to paragraph 4 above with an annotation indicating the scope of the exclusion imposed. Such debarments, suspensions and declarations of ineligibility shall not be effective throughout the Executive Branch of the Government unless the statutory or regulatory authority upon which the decision is based requires that effect. Nothing in this subparagraph prohibits another agnecy from debarring or suspending a contractor which has been so listed. If debarment or suspension is imposed by such other agency after the effective date of and pursuant to this Policy Letter, the debarment or suspension shall be effective throughout the Executive Branch of the Government and the annotation for the contractor on the consolidated list shall be deleted.

b. In those instances in which debarment has been initiated but no decision has been made prior to the effective date of this Policy Letter, the debarring official shall issue an amended notice of proposed debarment to the contractor:

(1) Advising the contractor that debarment, if imposed, shall be effective throughout the Executive Branch of the Government; and

(2) permitting the contractor 30 calendar days in which to submit such additional information, in light of the debarment's effect, as the contractor may deem appropriate.

After taking the foregoing actions, agencies may employ those debarment procedures in effect at the time that debarment was proposed to make final decisions in cases in this category.

Donald E. Sowle,
Administrator.

[FR Doc. 81-26565 Filed 9-10-81; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18080; File No. SR-MSRB-81-12]

Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Change

Proposed rule change by Municipal Securities Rulemaking Board, relating to Fidelity Bonding, comments requested on or before October 2, 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 September 1, 1981, the Municipal Securities Rulemaking Board 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 Changes

The Municipal Securities Rulemaking Board (the "Board") is filing herewith an amendment to rule G-6 on fidelity bonding (hereafter referred to as the "proposed rule change"). The text of the proposed rule change is as follows:

Rule G-6.[1] *Fidelity Bonding*

No municipal securities broker or municipal securities dealer (other than a bank dealer) shall be qualified for purposes of rule G-2 unless such broker or dealer, if a member of a registered securities association, has met the fidelity bonding requirements set forth in the rules of such association, to the same extent as if such rules were applicable to such broker or dealer, or such broker or dealer, if not a member of a registered securities association, has met the fidelity bonding requirements set forth in rule 15b10-11 under the Act, to the same extent as if such rules were applicable to such broker or dealer[, in each case as such requirements were set forth on January 10, 1977].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rules G-2 through G-7 set forth comprehensive standards for the professional qualifications of municipal securities brokers and dealers and their associated persons. Rule G-2 sets forth a general standard of qualification, rules G-3 and G-7 establish classification, examination, and information retention requirements for associated persons, rules G-4 and G-5 specify requirements concerning statutory and other disqualifications, and rules G-6 establishes fidelity bonding requirements. Rule G-6 currently specifies that municipal securities brokers and dealers (other than bank dealers) must maintain bonding coverage in accordance with the requirements of Article III, Section 32 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (the "NASD"), if they are members of the NASD, or in accordance with Commission rule 15b10-11, if they are SECO broker/dealers, in both cases as

[1] [Brackets] indicate deletions.

such requirements were set forth on January 10, 1977.

The proposed rule change deletes the reference in the rule to a specific date, thereby requiring municipal securities brokers and dealers to comply with either the NASD or the SECO requirements, whichever is appropriate, as they are currently in effect, and as they are from time to time amended. The Board believes that the inclusion of the date reference in rule G-6 may serve only to confuse municipal securities brokers and dealers as to the applicability of future changes to the respective fidelity bonding rules, and that municipal securities brokers and dealers should be complying with such changes at the time they are actually adopted. The Board believes that any subsequent changes in these requirements would be refinements, rather than substantive revisions of the basic requirements,[2] and notes that, should substantive revisions be proposed in the future, it would be able to consider the appropriateness of such revisions for municipal securities brokers and dealers at that time.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(A) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which

provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless such municipal securities broker or municipal securities dealer meets such standards of operational capability and such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meets such standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors.

The Board believes that the approach reflected in the current fidelity bonding requirements of Article III, Section 32 of the NASD's Rules of Fair Practice and Commission rule 15b10-11 is an appropriate standard of qualification for municipal securities brokers and dealers, and anticipates that any refinements in these requirements will be equally appropriate.

[2]The Board notes, for example, that the NASD adopted a technical amendment to its rule in July 1979 to correct an inequity in the annual review provisions as they apply to firms commencing their second year of business.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board is of the opinion that the proposed rule change will not impose any burden on competition among brokers, dealers or municipal securities dealers inasmuch as it is technical in nature. In the event of future refinements of the requirements of Article III Section 32 of the NASD's Rules of Fair Practice and Commission rule 15b10-11, the Board believes that the proposed rule change may act to remove a burden on competition, since it makes clear that such changes will apply to broker/dealers who are subject to fidelity bonding requirements solely by virtue of their activity as municipal securities brokers and dealers to the same extent and at the same time as such changes would apply to broker/dealers also conducting business in general securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before October 16, 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, NW., Washington, D.C. Copies of such filing also will 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 October 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 4, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-26585 Filed 9-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18081; File No. SR-MSRB-79-5]

Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Change

Proposed rule change by Municipal Securities Rulemaking Board, relating to uniform practice, comments requested on or before October 2, 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 26, 1981, the Municipal Securities Rulemaking Board 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 Changes

The Municipal Securities Rulemaking Board (the "Board") is filing herewith an amendment (the "proposed amendment") to the proposed rule change relating to section (d) of rule G-12 on uniform practice contained in File No. SR-MSRE-79-5 (the "proposed rule change"). The proposed rule change, as modified by the proposed amendment, is as follows: Rule G-12.[1] Uniform Practice.

(a) through (c) No change.

(d) Comparison and Verification of Confirmations; Unrecognized Transactions.

(i) and (ii) No change.

(iii) In the event a party has sent a confirmation of a transaction, but fails

[1]*Italics* indicate new language; [brackets] indicate deletions.

to receive a confirmation from the contra party of a notice indicating nonrecognition of the transaction, the confirming party shall, not earlier than the fourth business day following the trade date (the sixth business day following the trade date, in the case of an initial confirmation of a transaction effected on a "when, as, and if issued" basis) not later than the *eighth* [eleventh] business day following the trade date, seek to ascertain whether a trade occurred. If, after such verification, such party believes that a trade occurred, it shall immediately notify the non-confirming party by telephone to such effect and send within one business day thereafter, a written notice, return receipt requested, to the non-confirming party, indicating failure to confirm. Promptly following receipt of telephone notice from the confirming party, the non-confirming party shall seek to ascertain whether a trade occurred and the terms of the trade. In the event the non-confirming party determines that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and, within one business day thereafter, send a written confirmation of the transaction to the confirming party. In the event a party cannot confirm the trade, such party shall promptly send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction.

(iv) through (viii) No change.

(e) through (l) No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under rule G–12(d) as currently in effect, a municipal securities dealer which sends a confirmation of an inter-dealer transaction, but does not receive a contra-confirmation, must initiate certain procedures to verify the transaction, including giving telephonic and written notice to the professional who has failed to confirm. Paragraph (d)(iii) provides that in such cases these procedures must be initiated by the municipal securities dealer within four business days of the trade date (within six business days of the trade date in the case of an initial confirmation of a transaction effected on a "when, as, and if issued" basis).

On May 24, 1979, the Board filed with the Commission the proposed rule change, which provided that the verification procedures may be initiated, in the event a contra-confirmation is not received, at any time between the fourth business day and eleventh business day following the trade date. On October 22, 1979, the Board filed a technical amendment to the proposed rule change to clarify the operation of the specified time limits. The Board adopted the proposed rule change due to its concern that the extremely tight time limit of the existing rule was imposing significant compliance burdens on dealers due to problems in the receipt of contra-confirmations arising primarily from difficulties with the mails.

Subsequent to the filing of the technical amendment, the Commission staff communicated to the Board its view that the eleven-business-day outside time limit contemplated in the proposed rule change for initiation of the verification procedure was unnecessarily long, and would contribute to an undue delay in the comparison of transactions in municipal securities. The Commission staff noted that several of the commentators from certain money center cities had suggested that a shorter time limit would be appropriate, and requested that the Board consider adopting such a change. After consideration of the Commission staff's comments, the Board decided to conduct an informal fact-finding study to determine if a period shorter than the proposed eleven-business-day limit would be sufficient to accomplish the Board's goals in adopting the proposed rule change. Twenty-one dealers participated in the informal study, including dealers located in money center cities, dealers located on the West Coast, and other "regional" dealers.

In light of the results of the informal study and its reconsideration of the comments received the Board has concluded that an outside time limit of eight business days, rather than the currently-proposed eleven business days, would be appropriate. The Board believes that the data show that a significant number of contra-confirmations continue to be received after the four-business-day time limit of the existing rule, that the rate of receipt of such contra-confirmations shows a significant decline after approximately six to eight business days, but also that contra-confirmations continue to be received for some period thereafter (with some respondents showing significant numbers of such confirmations received after eleven business days). The significant decline in the rate of receipt of contra-confirmations in the six to eight business day period suggests that the outside time limit would properly be established at that time. The Board believes that the later date in that time period (i.e., the eighth business day) is the appropriate time limit for the following reasons:

(1) While the Board does not view the number of contra-confirmations received after eleven business days as sufficient to necessitate the previously-proposed outside time limit, it does believe that the timing of the requirement should balance the need for early comparison of transactions with this experience of continuing late receipt of certain confirmations. An eight business day limit, in the Board's view, balances these two considerations.

(2) All but one of the commentators on the original exposure draft of the proposed rule change supported lengthening the outside time limit, all of these commentators supported lengthening such time limit to at least the seventh business day after the trade date, and the majority of these supported an outside time limit longer than seven business days.

(3) The experience of those Board members from municipal securities firms and dealer banks also supports the later time limit. Board members have observed or learned about significant compliance burdens, in their own organizations and in others, imposed by the existing requirement, burdens that would not be substantially alleviated by a shorter time limit. The Board accepts the view of these members, based upon their own knowledge of the effect of the rule on dealers in specific regions, that the eighth business day is the date which balances the need for timely comparison with the desirability of minimizing unnecessary burden.

The Board is satisfied that consideration of all three of these factors supports an eight business day time limit.

The Board does not believe that the effect of the clearance of transactions should be given full weight in setting the appropriate outside time limit.[2] The functions of comparison and securities clearance are, in most dealers and dealer banks, performed by separate departments (the clearance function is often not performed internally by the dealer at all). The Board does not believe that it is practical to presume coordination of the results of these two activities as a necessary part of the comparison and verification

[2] On February 17, 1978, the Board issued an interpretive letter clarifying that the "failure to confirm" procedure of rule G–12(d)(iii) need not be completed if a transaction clears on the settlement date.

proecedure,[3] and believes that the time limits of the procedure should be set at those dates which make reasonable allowance for the delays in the receipt of the actual contra-confirmations.
(b) The Board has adopted the proposed amendments and the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which are

designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

The Board believes that the shortening of the outside time limit of the procedure to eight business days will foster timely and efficient comparison of transactions while minimizing the compliance burdens imposed by the comparison and verification procedure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board is of the opinion that the proposed amendments and the proposed rule change will act to remove a burden on competition. The comparison and verification procedure has a different impact on municipal securities firms and bank dealers located in different regions of the country, depending on the nature of their business, due to the problems in timely receipt of mail from other areas of the country (*e.g.*, dealers on the West Coast who deal in generl market securities (as opposed to local, West Coast issues) frequently experience problems in receiving contra-confirmations from East Coast dealers). The Board believes that the expanded time frames for the procedure provided under the proposed rule change will minimize this differential in the compliance burden imposed by the procedure.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board has not solicited or received comments from the municipal securities industry or interested members of the public on the proposed amendment.[4] The Board's consideration of the proposed amendment was prompted by comments received from the Commission staff, which are discussed earlier in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before October 16, 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, NW., Washington, D.C. Copies of such filing also will 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 October 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 4, 1981.

George A Fitzsimmons,

Secretary.

[FR Doc. 81-26584 Filed 9-10-81; 8:45 am]

BILLING CODE 8010-01-M

[3] The Board notes that, in many cases, regional dealers do not themselves perform clearance activities for the majority of their transactions. In these cases such dealers do not receive data on the clearance of transactions on the clearance date, and, often do not receive it for several business days.

[4] Comments received on the proposed rule change were discussed in the Board's previous filing.

[Release No. 34-18083; File No. SR-NASD-81-14]

National Association of Securities Dealers, Inc., Proposed Rule Change; Self-Regulatory Organization

In the matter of a proposed rule change relating to criteria for inclusion in the NASDAQ National and Additional Lists. Comments requested on or before October 2, 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 June 18, 1981, the National Association of Securities Dealers, Inc. 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 Association has submitted the specific criteria it will follow in determining the composition of its recommended lists for newspaper publication. The criteria for inclusion in quotation lists will be as follows:

Criteria for Inclusion in Quotation Lists

I. Composition of the Lists.

There shall be two recommended lists of NASDAQ securities provided to the media: the "National List" and the "Additional List." Inclusion on the lists shall be determined semi-annually on the basis of information available to the Association on the selection date. All quotations released shall be Level I quotations.

II. National List.

A. Domestic Common Stock. The financial criteria for domestic common stock are separated into two alternative cagegories detailed below. Issuers which meet either one of the alternative criteria will be included in the National List regardless of their dollar volume. Alternative No. 1 includes a net income requirement while Alternative No. 2 has no income requirement but establishes higher financial requirements for those development companies which have no operating income:

Alternative No. 1

1. 350,000 Publicly Held Shares

2. Market Value of Publicly Held Shares of $2,000,000

3. Minimum Bid Price of $3.00

4. Net Income of $300,000 in the previous fiscal year or in two of the last three fiscal years.

Alternative No. 2

1. 800,000 Publicly Held Shares
2. Market Value of Publicly Held Shares of $8,000,000
3. Net Worth of $8,000,000
4. Incorporated for 4 years.

B. Foreign Securities. Foreign issues and American Depository Receipts (ADR's) registered pursuant to Section 12(g) under the Securities Exchange Act of 1934, as well as issues for which all relevant information has been filed with the Securities and Exchange Commission pursuant to Rule 12g3-2, shall meet the same criteria as domestic common stock except that the publicly held shares requirement for ADR's shall be determined by the number of ADR's outstanding.

C. Warrants. Common stock of issuer must be in the National List and all criteria for domestic common stock apply except that the publicly held shares requirement is replaced with 450,000 warrants publicly held at the time of the initial distribution.

D. Convertible Debentures. Common stock of issuer must be in the National List and $100 million of the issue must be outstanding.

E. Units. All criteria for domestic common stock apply except that the publicly held shares requirement is replaced with 350,000 publicly held units at time of initial distribution.

F. Rights. Automatically included if common stock of issuer is quoted in the National List.

G. Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts, Limited Partnership Interests, Real Estate Investment Trusts and Closed End Funds.

Same criteria as domestic common stock.

H. New Issues.

Securities that meet the above criteria immediately following an initial distribution or secondary offering will be added to the National List on the day of the distribution.

III. Additional List.

All positions in the Additional List will be filled on the basis of dollar value of average weekly volume.[1]

[1] *Explanation of Average Weekly Volume—To monitor security volume data in NASDAQ, a statistical moving average method called exponential averaging is used and is recomputed weekly. This technique gives more weight to the most current volume and less weight to the most distant past. For example, at present the weighting parameter is chosen to give 10% weight to the most current volume and less than 1% weight to the volume that occurred 23 weeks ago. Thus, the significance of the reported volume as maintained for more than 6 months is virtually nil.*

II. Self-Regulatory Organization's Statements Regarding the Proposed 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

These criteria provide that companies meeting certain stated financial standards will be assured of inclusion in the National List recommended to newspapers. Remaining positions on the National List and all of the Additional List will be filled by companies with the greatest dollar volume. This should provide greater stability to the National List.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Association does not anticipate any significant burden on competition and believes that any potential impact is more than offset by providing investors with a more stable source of quotation information.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In Notice to Members 81-13 (March 18, 1981), the NASD Board of Governors solicited comments. Two hundred eight responses were received, 70% of which favored the proposed criteria.

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 subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 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 argument concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., 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, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 4, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-26545 Filed 9-10-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18082; File No. SR-NASD-81-15]

National Association of Securities Dealers, Inc.; Proposed Rule Change; Self-Regulatory Organization

In the matter of proposed rule change relating to standards for publication and dissemination of NASDAQ quotations to the news media. Comments requested on or before October 2, 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 June 18, 1981, the National Association of Securities Dealers, Inc., 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 proposed rule change will permit the use of financial criteria as well as dollar volume of trading for determination of which securities will be recommended by the NASD for inclusion in quotation lists. The precise financial criteria are presented in File No. SR–NASD–81–14 noticed in Release No. 34–18083 ("the companion filing").

II. Self-Regulatory Organization's Statements Regarding the Proposed 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), (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 use of financial criteria, as well as dollar volume, will provide stability to the quotations lists and permit investors to have a more reliable source for quotations for their securities. This proposal is being made pursuant to Section 15A(B)(11) of the Act which provides that the rules of the NASD must govern the form and content of quotations of over-the-counter securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not envision any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments from interested parties were solicited. Since the comments also addressed the specific criteria presented in the companion filing, they are discussed in connection therewith.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before October 16, 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 October 2, 1981.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 4, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-26546 Filed 9-10-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Disaster Loan Area No. 2007]

California; Declaration of Disaster Loan Area

The area bounded by Folsom Street, Rodgers Street, Harrison Street and Langton Street in the City of San Francisco, San Francisco County, California, constitutes a disaster area because of damage resulting from fire which occurred on July 10, 1981. Eligibe persons, firms and organizations may file applications for loans for physical damage until the close of business on November 2, 1981, and for economic injury until the close of business on June 3, 1982, at:

Small Business Administration, District Office, 211 Main Street, 4th Floor, San Francisco, California 94105.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 3, 1981.

Donald R. Templeman,

Acting Administrator.

[FR Doc. 81-26491 Filed 9-10-81; 8:45 am]

BILLING CODE 8025-01-M

[Disaster Loan Area No. 2009]

Nevada; Declaration of Disaster Loan Area

Clark County, Nevada constitutes a disaster area, as a result of damage caused by severe storms and flooding beginning on or about August 10, 1981. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 29, 1981, and for economic injury until the close of business on May 28, 1982, at:

Small Business Administration, Box 7527 Downtown Station, 301 East Stewart, Las Vagas, Nevada 89101.

or other locally announced locations. For recent changes in disaster loan eligibility, see 46 FR 18526 (March 25, 1981).

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 2, 1981.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 81-26492 Filed 9-10-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[CM-8/438]

Advisory Committee to United States Section International North Pacific Fisheries Commission; Partially Closed Meeting

The Advisory Committee to the United States Section, International North Pacific Fisheries Commission, will meet on September 26, 1981, at the Sheraton Hotel, Anchorage, Alaska, at 9:00 a.m. This session will discuss the 1976 Protocol to the International Convention for the High Seas Fisheries of the North Pacific Ocean, surveillance of foreign fishing fleets, the progress of fisheries research, particularly that for dall porpoise, the Alaska salmon fisheries, and fishery developments as they affect the International North

Pacific Fisheries Commission. The session will be open to the public.

The Advisory Committee will also meet from 1:30 p.m. to 5:00 p.m. on September 26, 1981 and from 1:00 p.m. to 5:00 p.m. on September 27, 1981. These sessions will not be open to the public inasmuch as the discussion will involve classified matters pertaining to the United States negotiating position to be taken at the 28th Annual Meeting of the International North Pacific Fisheries Commission to be held in Vancouver, B.C., Canada, during November 2–6, 1981. Pursuant to section 4(c) of the North Pacific Fisheries Act of 1954, as amended, 16 U.S.C. 1023(c) which provides that the "advisory committee * * * shall be granted opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section," the members of the Advisory Committee will examine various options for the negotiating position at the Special Meeting, and these considerations must necessarily involve review of classified matters. Accordingly the determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(d) and 5 U.S.C. 552b(c)(1) and (c)(9).

Requests for further information on the meeting should be directed to Ms. Christine Dawson, Pacific Fisheries Officer, Room 5806, (OES/OFA) U.S. Department of State, Washington, D.C. 20502. Ms. Dawson can be reached by telephone on (202) 632–2009.

Dated: September 2, 1981.

Theodore G. Kronmiller,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 81-26563 Filed 9-10-81; 8:45 am]

BILLING CODE 4710-10-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on October 6, 1981, at 10 a.m., the Muskogee Station Committee on Educational Allowances shall at Room 2A20, 125 South Main Street, Muskogee, Oklahoma, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Western Oklahoma State College, Altus, Oklahoma, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: September 4, 1981.

Ray E. Smith,

Director, VA Regional Office.

[FR Doc. 81-26607 Filed 9-10-81; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on October 5, 1981, at 10 a.m., the Muskogee Station Committee on Educational Allowances shall at Room 2A20, 125 South Main Street, Muskogee, Oklahoma, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Northeastern Oklahoma A and M College, Miami, Oklahoma, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: September 4, 1981.

Ray E. Smith,

Director, VA Regional Office.

[FR Doc. 81-26608 Filed 9-10-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 176
Friday, September 11, 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).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

DATE AND TIME: Tuesday, September 15, 1981, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: *Open:*

1. Freedom of Information Act Appeal No. 81-7-FOIA-16-MM, a request for records contained in open ADEA files.
2. Recommended Tribal Employment Rights Office (TERO) FY '81 Contract Extensions.
3. Proposed Revision of Section 15 of Volume I of EEOC's Compliance Manual.
4. Ninety-Day Notice Concerning *County of Washington* v. *Gunther*.
5. Quarterly Review of Section 603 of the Compliance Manual, Volume 2, Identifying and Processing Charges Which Raise Issues not Covered by a Commission Decision Precedent and Exhibit 603-A, Partial Index of Commission Decision Precedent Decisions.
6. Eight Proposed contracts for services needed in connection with litigation matters.
7. Report on Commission Operations by the Executive Director.

Closed

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued September 8, 1981.

[S-1371-81 Filed 9-9-81; 3:45 pm]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, September 8, 1981, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Cantwell F. Muckenfuss, III, acting in the place and stead of Director Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of City and County Savings Bank, Albany, New York, for consent to merge, under its charter and with the title "Home and City Savings Bank," With Home Savings Bank of Upstate New York, Albany, New York, and to establish the ten offices of the Home Savings Bank of Upstate New York as branches of the resultant bank.

Request for relief from adjustment for violations of Regulation Z: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8) and (c)(9)(A)(ii)).

Request from the Comptroller of the Currency that the Corporation, pursuant to section 10(b) of the Federal Desposit Insurance Act, assist in an examination of a national bank.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: September 8, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1365-81 Filed 9-9-81; 11:25 am]

BILLING CODE 6714-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

September 9, 1981.

TIME AND DATE: 1:00 p.m., September 10, 1981.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket Nos. EL81-13 and ER81-457.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

The following members of the Commission voted that agency business requires the holding of a closed meeting on less than the seven days' notice required by the Government in the Sunshine Act.

Kenneth F. Plumb,

Secretary.

[S-1367-81 Filed 9-9-81; 2:09 pm]

BILLING CODE 6450-85-M

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., September 17, 1981.

PLACE: 1700 G Street, N.W., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Modification of Service Corporation Activity—AmeriFirst Federal Savings & Loan Association, Miami, Florida

Application for Merger—Oceanside Federal Savings & Loan Association (Mutual), Oceanside, California into Pacific Federal Savings & Loan Association (Mutual), Costa Mesa, California

Bank Membership and Insurance of Accounts—Western Carolina Savings & Loan Association, Valdese, North Carolina

[S-1370-81 Filed 9-8-81; 3:32 pm]

BILLING CODE 6720-01-M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., September 17, 1981.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly Report of the Managing Director of Actions taken Pursuant to Delegated Authority.
2. Agreement No. 10414: PRC–USA Eastbound Rate Agreement.
3. Agreement No. 10420: American Flag Common Carrier Charter Agreement.
4. Agreement T–3946: Marine Terminal Lease Between Virginia Port Authority and Oyster Point Development Corporation.

Portion closed to the public:

1. Docket No. 80–76: Heidelberg Eastern, Inc. v. Container Overseas Service, Inc. and Container Overseas Agency, Inc.—Consideration of request of Container Overseas Agency, Inc. for waiver of rules and possible consideration of petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-1366-81 Filed 9-9-81; 11:29 am]

BILLING CODE 6730-01-M

6

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 9:30 a.m.–3:30 p.m., September 22, 1981.

PLACE: Board Room, Inter-American Foundation, 1515 Wilson Boulevard, Arlington, VA 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report.
2. President's Report.
3. Minutes of May 7, 1981 Meeting.
4. Extension of Fellowship Program.
5. Financial Report on FY 1981 Spending.
6. FY 1983 Budget.

CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr. (703) 841–3812.

[S-1368-81 Filed 9-9-81; 2:27 pm]

BILLING CODE 7025-01-M

7

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Bethesda, Maryland, Headquarters)

[1P0401]

TIME AND DATE: 9:30 a.m., Friday, September 18, 1981.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5926.

[S-1369-81 Filed 9-9-81; 2:43 pm]

BILLING CODE 4410-01-M

8

POSTAL RATE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 10, 1981.

PLACE: Conference Room, Rm. 500, 2000 L Street, N.W., Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Further reconsideration of Docket No. R80–1. (Closed pursuant to 5 U.S.C. 552b(c)(10)).

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254–5614.

[S-1362-81 Filed 9-8-81; 5:08 pm]

BILLING CODE 7715-01-M

9

POSTAL RATE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 10, 1981.

PLACE: Conference Room, Rm. 500, 2000 L Street N.W., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Further reconsideration of Docket No. R80–1. (Closed pursuant to 5 U.S.C. 552b(c)(10).)

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street N.W., Washington, D.C. 20268, Tel. (202) 254–5614.

[S-1364-81 Filed 9-9-81; 9:06 am]

BILLING CODE 7715-01-M

10

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 10 a.m., September 17, 1981.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

(1) Functions and structure of the field service.
(2) Appeal of Railroad Concrete Crosstie Corporation.
(3) Appeal of Excelsior Truck Leasing, Inc.
(4) Appeal of coverage ruling relating to service performed for the Kansas City Southern Railway Company under certain contracts with Trans-Mark Services, Inc., and Servitron, Inc.
(5) Procedure for writing decisions on appealed cases.

Portion closed to the public:

(A) Appeal from referee's denial of disability annuity, Elmer L. Tunstall.
(B) Intra-Board personnel matter.

CONTACT PERSON FOR MORE INFORMATION: Beatrice Ezerski, COM No. 312–751–4920; PTS No. 387–4920.

[S-1363-81 Filed 9-9-81; 9:06 am]

BILLING CODE 7905-01-M

federal register

Friday
September 11, 1981

Part II

Department of Education

Guaranteed Student Loan Program; Family Contribution Schedule

DEPARTMENT OF EDUCATION

Guaranteed Student Loan Program; Family Contribution Schedule

AGENCY: Department of Education.

ACTION: Notice of family contribution schedule.

SUMMARY: The Secretary announces the family contribution schedule for the Guaranteed Student Loan (GSL) Program for use in the period beginning October 1, 1981. This schedule applies where the institution completes its portion of a student's GSL application on or after October 1, 1981, but not later than June 30, 1982, for any period of instruction which begins not later than June 30, 1982. The schedule is used to determine whether a student is eligible to receive an interest subsidy under the GSL program.

EFFECTIVE DATE: The family contribution schedule is effective on October 1, 1981 unless the Senate or the House of Representatives adopts a resolution of disapproval before October 1, 1981.

FOR FURTHER INFORMATION CONTACT: David C. Bayer, Chief, Guaranteed Student Loan Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue S.W., Washington, D.C. 20202. Telephone (202) 245-2475.

SUPPLEMENTARY INFORMATION:

General

Section 532 of the Omnibus Budget Reconciliation Act of 1981 amended the eligibility requirements for an interest subsidy under the Guaranteed Student Loan Program. (Section 428 of the Higher Education Act.) Section 540 of the Omnibus Budget Reconciliation Act established the effective date for the changes made by section 532. This new procedure required by section 532, as set forth below, applies where the institution completes its portion of a student's GSL application on or after October 1, 1981, but not later than June 30, 1982, for any period of instruction which begins not later than June 30, 1982. If the institution completes its portion of the application before October 1, 1981, the amendments made by section 532 do not apply and the student automatically receives an interest subsidy.

As amended, an otherwise eligible student is eligible to receive an interest subsidy for his loan if the adjusted gross income of the student's family is not more than $30,000, or where that income is more than $30,000, if the student demonstrates financial need for that loan. The adjusted gross income of the student's family means the adjusted gross income of (1) of the student, (2) the student's spouse, if any, and (3) as set forth below, the student's mother and father. In all cases, the income referred to is the income reported on the 1980 Federal income tax return. The institution determines the adjusted gross income of the student's family, based on data provided, and certified to, by each person whose income is required to be considered.

For students whose family income exceeds $30,000, the institution the student attends determines whether the student has financial need by subtracting from the student's estimated cost of attendance, the student's estimated financial assistance and expected family contribution. The institution calculates the student's expected family contribution in accordance with the family contribution schedule established by the Secretary in this notice. For all information required for this calculation, the institution relies on statements made, and certified to, by the student.

The family contribution schedule for the Guaranteed Student Loan Program for the period between October 1, 1981 and June 30, 1982 is as follows:

GSL—Family Contribution Schedule

For the period October 1, 1981 through June 30, 1982, the institution shall calculate the expected family contribution of an applicant for a Guaranteed Student Loan whose adjusted gross family income exceeds $30,000 as follows:

(a) If the student receives financial assistance for award year 1981–82 (July 1, 1981–June 30, 1982) under the Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS), or National Direct Student Loan (NDSL) Program, the student's expected family contribution for the Guaranteed Student Loan Program is his or her expected family contribution calculated for the SEOG, CWS, or NDSL program.

(b) If the student has not received financial assistance under the SEOG, CWS, or NDSL program for the 1981–82 award year at the time he applies for a Guaranteed Student Loan, the institution shall calculate the student's expected family contribution under either—

(1) The need analysis system it uses for the SEOG, CWS or NDSL program; or

(2) The system used in conjunction with the following four tables.

The student's status as of the date he applies determines whether Table A, Table B, Table C, or Table D is to be used. Tables A and B refer to dependent students, Tables C and D refer to independent students.

For a two parent family (Table A), adjusted gross income means the adjusted gross income of the student, the student's spouse, if any, and the student's mother and father as reported on the 1980 Federal income tax return. If the student's parents are divorced or separated, or one of the student's parents has died, the student is considered as being from a one parent family and the institution must use Table B. When Table B is used, the adjusted gross income means the adjusted gross income of the student, the student's spouse, if any, and the parent as reported on the 1980 Federal income tax return.

If the parent of the student whose income would be used under Table B remarries, the student is considered as being from a two parent family if the student lives in the home of the parent and step-parent for more than six weeks in 1980 or 1981, or if the student received or will receive $1,000 from the step-parent in either of those years. In such a situation, the institution must use Table A and the adjusted gross income of the step-parent as reported on his or her 1980 Federal income tax return would be included as part of the adjusted gross income.

For purposes of the four tables,

"Dependent student" means a student who does not qualify as an independent student; and

"Independent student" means:

A student who for 1980 and 1981—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s);

(2) Has not received and will not receive financial assistance of more than $1,000 in each year from his or her parent(s); and

(3) Has not lived and will not live for more than six weeks in each year in the home of his or her parent(s).

Record Keeping Requirement

The institution shall retain all information, determinations and certifications required by this notice in accordance with the record retention requirements of 34 CFR 682.612(c).

A. Dependent Student From a Two Parent Family

For a dependent student from a two parent family, the institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled in a postsecondary institution on at least a half-time basis.

Table A.—*Expected Family Contribution for a Dependent Student From a Two Parent Family*

Adjusted gross income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
Less than $20,001:										
$30,001 to $30,174	$3,140	$2,500	$1,990	$1,490	$1,170	$860	$550	$240	$0	$0
$30,125 to $30,343	3,190	2,540	2,020	1,520	1,200	880	570	260	0	0
$30,375 to $30,624	3,250	2,590	2,060	1,560	1,230	920	610	300	0	0
$30,625 to $30,874	3,310	2,640	2,110	1,600	1,270	960	650	330	20	0
$30,875 to $31,124	3,370	2,690	2,150	1,640	1,300	990	680	370	60	0
$31,125 to $31,374	3,430	2,740	2,200	1,680	1,340	1,030	720	410	100	0
$31,375 to $31,624	3,500	2,790	2,240	1,710	1,370	1,060	750	440	130	0
$31,625 to $31,874	3,570	2,855	2,290	1,750	1,410	1,100	790	480	170	0
$31,875 to $32,124	3,640	2,910	2,340	1,790	1,450	1,130	820	510	200	0
$37,125 to $32,374	3,710	2,970	2,390	1,830	1,480	1,170	860	550	240	0
$32,375 to $32,624	3,780	3,030	2,440	1,880	1,520	1,200	890	580	270	0
$32,625 to $32,874	3,850	3,090	2,490	1,920	1,560	1,240	930	620	310	0
$32,875 to $33,124	3,920	3,150	2,540	1,960	1,600	1,270	960	650	340	30
$33,125 to $33,374	3,990	3,210	2,590	2,010	1,630	1,300	1,000	690	380	70
$33,375 to $33,624	4,050	3,270	2,650	2,050	1,670	1,330	1,030	720	410	100
$33,625 to $33,874	4,110	3,330	2,700	2,090	1,710	1,370	1,070	760	450	140
$33,875 to $34,124	4,180	3,390	2,750	2,140	1,750	1,400	1,100	790	480	170
$34,125 to $34,374	4,240	3,450	2,800	2,180	1,780	1,440	1,130	830	520	210
$34,375 to $34,624	4,310	3,510	2,860	2,220	1,830	1,480	1,170	860	550	240
$34,625 to $34,874	4,370	3,580	2,920	2,270	1,870	1,520	1,200	900	590	280
$34,875 to $35,124	4,440	3,640	2,980	2,320	1,910	1,550	1,230	930	620	310
$35,125 to $35,374	4,500	3,710	3,030	2,370	1,960	1,590	1,260	960	660	350
$35,375 to $35,624	4,570	3,770	3,090	2,420	2,000	1,630	1,300	1,000	690	380
$35,625 to $35,874	4,630	3,840	3,140	2,480	2,040	1,670	1,330	1,030	730	420
$35,875 to $36,124	4,700	3,900	3,200	2,520	2,090	1,700	1,360	1,060	760	450
$36,125 to $36,374	4,760	3,970	3,250	2,570	2,130	1,740	1,400	1,090	790	490
$36,375 to $36,624	4,820	4,030	3,310	2,620	2,180	1,780	1,440	1,130	830	520
$36,625 to $36,874	4,890	4,090	3,360	2,670	2,220	1,820	1,470	1,160	860	560
$36,875 to $37,124	4,850	4,160	3,420	2,710	2,260	1,860	1,510	1,190	890	590
$37,125 to $37,374	5,020	4,220	3,480	2,760	2,310	1,910	1,550	1,230	930	620
$37,375 to $37,624	5,080	4,290	3,550	2,810	2,360	1,950	1,590	1,260	960	660
$37,625 to $37,874	5,150	4,350	3,610	2,860	2,400	2,000	1,620	1,290	990	690
$37,875 to $38,124	5,210	4,420	3,680	2,920	2,450	2,040	1,660	1,330	1,020	720
$38,125 to $38,374	5,280	4,480	3,740	2,970	2,500	2,080	1,700	1,360	1,060	760
$38,375 to $38,624	5,330	4,550	3,800	3,030	2,540	2,120	1,740	1,390	1,090	790
$38,625 to $38,874	5,390	4,610	3,870	3,080	2,590	2,160	1,770	1,430	1,120	820
$38,875 to $39,124	5,450	4,680	3,930	3,140	2,640	2,200	1,810	1,470	1,160	850
$39,125 to $39,374	5,510	4,740	4,000	3,190	2,680	2,240	1,850	1,510	1,190	890
$39,375 to $39,624	5,560	4,800	4,060	3,250	2,730	2,280	1,890	1,540	1,220	920
$39,625 to $39,874	5,620	4,850	4,130	3,300	2,780	2,330	1,930	1,580	1,260	950
$39,875 to $40,124	5,680	4,910	4,190	3,360	2,830	2,360	1,970	1,620	1,290	990
$40,125 to $40,374	5,740	4,970	4,260	3,410	2,890	2,420	2,010	1,650	1,320	1,020
$40,375 to $40,624	5,790	5,030	4,310	3,480	2,940	2,470	2,050	1,690	1,350	1,050
$40,625 to 40,874	5,850	5,090	4,370	3,540	3,000	2,520	2,080	1,720	1,390	1,090
$40,875 to $41,124	5,910	5,140	4,430	3,600	3,050	2,560	2,130	1,750	1,420	1,120
$41,125 to $41,374	5,970	5,200	4,490	3,670	3,110	2,610	2,170	1,790	1,460	1,150
$41,375 to $41,624	6,020	5,260	4,540	3,730	3,160	2,660	2,210	1,830	1,490	1,180
$41,625 to $41,874	6,080	5,320	4,600	3,780	3,220	2,700	2,250	1,870	1,530	1,220
$41,875 to $42,124	6,140	5,370	4,660	3,840	3,270	2,750	2,300	1,910	1,560	1,250
$42,125 to $42,374	6,200	5,430	4,720	3,900	3,320	2,800	2,350	1,950	1,600	1,280
$42,375 to $42,624	6,250	5,490	4,770	3,960	3,370	2,850	2,390	1,990	1,630	1,310
$42,625 to $42,874	6,310	5,550	4,830	4,010	3,420	2,910	2,440	2,030	1,670	1,340
$42,875 to $43,124	6,370	5,600	4,890	4,070	3,480	2,960	2,490	2,070	1,700	1,370
$43,125 to $43,274	6,430	5,660	4,950	4,130	3,540	3,020	2,530	2,110	1,730	1,400
$43,375 to $43,624	6,480	5,720	5,000	4,190	3,500	3,070	2,580	2,150	1,770	1,440
$43,625 to $43,874	6,540	5,780	5,060	4,240	3,650	3,110	2,630	2,190	1,810	1,470
$43,875 to $44,124	6,600	5,830	5,120	4,300	3,710	3,160	2,670	2,230	1,850	1,510
$44,125 to $44,374	6,660	5,890	5,180	4,360	3,770	3,210	2,720	2,270	1,890	1,540
$44,375 to $44,624	6,710	5,950	5,230	4,420	3,820	3,260	2,760	2,320	1,930	1,580
$44,625 to $44,874	6,770	6,010	5,290	4,470	3,880	3,310	2,810	2,370	1,970	1,610
$44,875 to $45,124	6,830	6,060	5,350	4,530	3,940	3,360	2,860	2,410	2,010	1,640
$45,125 to $45,374	6,890	6,120	5,410	4,590	4,000	3,410	2,900	2,460	2,050	1,680
$45,375 to $45,624	6,950	6,180	5,460	4,650	4,050	3,460	2,950	2,500	2,090	1,710
$45,625 to $45,874	7,000	6,240	5,520	4,700	4,110	3,520	3,000	2,540	2,130	1,750
$45,875 to $46,174	7,060	6,290	5,580	4,760	4,170	3,580	3,050	2,580	2,160	1,780
$46,125 to $46,374	7,120	6,350	5,640	4,820	4,230	3,640	3,100	2,630	2,200	1,820
$46,375 to $46,624	7,180	6,410	5,690	4,880	4,280	3,690	3,150	2,670	2,240	1,860
$46,625 to $46,874	7,230	6,470	5,750	4,930	4,340	3,750	3,200	2,710	2,280	1,900
$46,875 to $47,124	7,290	6,520	5,810	4,990	4,400	3,810	3,250	2,750	2,320	1,940
$47,125 to $47,374	7,350	6,580	5,870	5,050	4,460	3,870	3,300	2,790	2,360	1,980
$47,375 to $47,624	7,410	6,640	5,930	5,110	4,520	3,920	3,350	2,840	2,410	2,020
$47,625 to $47,874	7,460	6,700	5,980	5,170	4,570	3,980	3,390	2,890	2,450	2,050
$47,875 to $48,124	7,520	6,750	6,040	5,220	4,630	4,040	3,450	2,940	2,490	2,090
$48,125 to $48,374	7,580	6,810	6,100	5,280	4,690	4,100	3,500	2,990	2,530	2,120
$48,375 to $48,624	7,640	6,870	6,160	5,340	4,750	4,150	3,560	3,040	2,570	2,160
$48,625 to $48,874	7,690	6,930	6,210	5,400	4,800	4,210	3,620	3,090	2,610	2,190
$48,875 to $49,124	7,750	6,990	6,270	5,450	4,860	4,270	3,680	3,140	2,660	2,230
$49,125 to $49,374	7,800	7,040	6,330	5,510	4,920	4,330	3,730	3,180	2,700	2,270
$49,375 to $49,624	7,850	7,100	6,390	5,570	4,980	4,380	3,790	3,230	2,740	2,310
$49,625 to $49,874	7,900	7,160	6,440	5,630	5,030	4,440	3,850	3,280	2,780	2,350
$49,875 to $50,124	7,950	7,210	6,500	5,680	5,090	4,500	3,910	3,330	2,830	2,390
$50,125 to $50,374	8,000	7,200	6,560	5,740	5,150	4,560	3,960	3,380	2,880	2,440
$50,375 to $50,624	8,050	7,310	6,620	5,800	5,210	4,610	4,020	3,430	2,930	2,480
$50,625 to $50,874	8,100	7,360	6,670	5,860	5,260	4,670	4,080	3,490	2,970	2,520
$50,875 to $51,124	8,150	7,410	6,730	5,910	5,320	4,730	4,140	3,540	3,020	2,560
$51,125 to $51,374	8,200	7,460	6,780	5,970	5,380	4,780	4,190	3,600	3,070	2,600
$51,375 to $51,624	8,250	7,510	6,830	6,030	5,440	4,840	4,250	3,660	3,120	2,640
$51,625 to $51,874	8,300	7,560	6,880	6,090	5,490	4,900	4,310	3,720	3,170	2,680
$51,875 to $52,124	8,350	7,610	6,930	6,140	5,550	4,960	4,370	3,770	3,220	2,730

Table A.—*Expected Family Contribution for a Dependent Student From a Two Parent Family*—Continued

Adjusted gross income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
$52,125 to $52,374	8,400	7,660	6,980	6,190	5,610	5,020	4,420	3,830	3,270	2,770
$52,375 to $52,624	8,450	7,710	7,030	6,240	5,670	5,070	4,480	3,890	3,320	2,810
$52,625 to $52,874	8,500	7,770	7,080	6,290	5,720	5,130	4,540	3,950	3,370	2,860
$52,875 to $53,124	8,550	7,820	7,130	6,340	5,780	5,190	4,600	4,010	3,420	2,910
$53,125 to $53,374	8,600	7,870	7,180	6,390	5,830	5,250	4,660	4,060	3,470	2,960
$53,375 to $53,624	8,650	7,920	7,230	6,440	5,880	5,300	4,710	4,120	3,530	3,010
$53,625 to $53,874	8,710	7,970	7,280	6,490	5,930	5,360	4,770	4,180	3,590	3,060
$53,875 to $54,124	8,760	8,020	7,330	6,540	5,980	5,410	4,830	4,240	3,640	3,110
$54,125 to $54,374	8,810	8,070	7,380	6,590	6,030	5,470	4,890	4,290	3,700	3,160
$54,375 to $54,624	8,860	8,120	7,430	6,640	6,080	5,520	4,940	4,350	3,760	3,210
$54,625 to $54,874	8,910	8,170	7,480	6,690	6,130	5,570	5,000	4,410	3,820	3,250
$54,875 to $55,124	8,960	8,220	7,530	6,740	6,180	5,620	5,050	4,470	3,870	3,300
$55,125 to $55,374	9,010	8,270	7,580	6,800	6,230	5,670	5,100	4,520	3,930	3,350
$55,375 to $55,624	9,060	8,320	7,640	6,850	6,280	5,720	5,150	4,580	3,990	3,400
$55,625 to $55,874	9,110	8,370	7,690	6,900	6,330	5,770	5,200	4,640	4,050	3,450
$55,875 to $56,124	9,160	8,420	7,740	6,950	6,380	5,820	5,250	4,690	4,100	3,510
$56,125 to $56,374	9,210	8,470	7,790	7,000	6,430	5,870	5,310	4,740	4,160	3,570
$56,375 to $56,624	9,260	8,520	7,840	7,050	6,480	5,920	5,360	4,790	4,220	3,630
$56,625 to $56,874	9,310	8,570	7,890	7,100	6,530	5,970	5,410	4,840	4,280	3,680
$56,875 to $57,124	9,360	8,620	7,940	7,150	6,580	6,020	5,460	4,890	4,330	3,740
$57,125 to $57,374	9,410	8,680	7,990	7,200	6,640	6,070	5,510	4,940	4,380	3,800
$57,375 to $57,624	9,460	8,730	8,040	7,250	6,690	6,120	5,560	4,990	4,430	3,860
$57,625 to $57,874	9,510	8,780	8,090	7,300	6,740	6,170	5,610	5,040	4,480	3,910
$57,875 to $58,124	9,560	8,830	8,140	7,350	6,790	6,220	5,660	5,090	4,530	3,970
$58,125 to $58,374	9,620	8,880	8,190	7,400	6,840	6,270	5,710	5,150	4,580	4,020
$58,375 to $58,624	9,670	8,930	8,240	7,450	6,890	6,320	5,760	5,200	4,630	4,070
$58,625 to $58,874	9,720	8,980	8,290	7,500	6,940	6,370	5,810	5,250	4,680	4,120
$58,875 to $59,124	9,770	9,030	8,340	7,550	6,990	6,420	5,860	5,300	4,730	4,170
$59,125 to $59,374	9,820	9,080	8,390	7,600	7,040	6,480	5,910	5,350	4,780	4,220
$59,375 to $59,624	9,870	9,130	8,440	7,650	7,090	6,530	5,960	5,400	4,830	4,270
$59,625 to $59,874	9,920	9,180	8,490	7,700	7,140	6,580	6,010	5,450	4,880	4,320
$59,875 to $60,124	9,970	9,230	8,540	7,750	7,190	6,630	6,060	5,500	4,930	4,370
$60,125 to $60,374	10,020	9,280	8,600	7,810	7,240	6,680	6,110	5,550	4,990	4,420
$60,375 to $60,624	10,070	9,330	8,650	7,860	7,290	6,730	6,160	5,600	5,040	4,470
$60,625 to $60,874	10,120	9,380	8,700	7,910	7,340	6,780	6,210	5,650	5,090	4,520
$60,875 to $61,124	10,170	9,430	8,750	7,960	7,390	6,830	6,260	5,700	5,140	4,570
$61,125 to $61,374	10,220	9,480	8,800	8,010	7,440	6,880	6,320	5,750	4,190	4,620
$61,375 to $61,624	10,270	9,530	8,850	8,060	7,490	6,930	6,370	5,800	5,240	4,670
$61,625 to $61,874	10,320	9,580	8,900	8,110	7,540	6,980	6,420	5,850	5,290	4,720
$61,875 to $62,124	10,370	9,630	8,950	8,160	7,600	7,030	6,470	5,900	5,340	4,780
$62,125 to $62,374	10,420	9,690	9,000	8,210	7,650	7,080	6,520	5,950	5,390	4,830
$62,375 to $62,624	10,470	9,740	9,050	8,260	7,700	7,130	6,570	6,000	5,440	4,880
$62,625 to $62,874	10,520	9,790	9,100	8,310	7,750	7,180	6,620	6,050	5,490	4,930
$62,875 to $63,124	10,570	9,840	9,150	8,360	7,800	7,230	6,670	6,110	5,540	4,980
$63,125 to $63,374	10,620	9,890	9,200	8,410	7,850	7,280	6,720	6,160	5,590	5,030
$63,375 to $63,624	10,660	9,940	9,250	8,460	7,900	7,330	6,770	6,210	5,640	5,080
$63,625 to $63,874	10,710	9,990	9,300	8,510	7,950	7,380	6,820	6,260	5,690	5,130
$63,875 to $64,124	10,750	10,040	9,350	8,560	8,000	7,440	6,870	6,310	5,740	5,180
$64,125 to $64,374	10,800	10,080	9,400	8,610	8,050	7,490	6,920	6,360	5,790	5,230
$64,375 to $64,624	10,840	10,130	9,450	8,660	8,100	7,540	6,970	6,410	5,840	5,280
$64,625 to $64,874	10,890	10,170	9,500	8,720	8,150	7,590	7,020	6,460	5,900	5,330
$64,875 to $65,124	10,930	10,220	9,550	8,770	8,200	7,640	7,070	6,510	5,950	5,380
$65,125 to $65,374	10,980	10,260	9,600	8,820	8,250	7,690	7,120	6,560	6,000	5,430
$65,375 to $65,624	11,020	10,310	9,640	8,870	8,300	7,740	7,170	6,610	6,050	5,480
$65,625 to $65,874	11,070	10,350	9,690	8,920	8,350	7,790	7,230	6,660	6,100	5,530
$65,875 to $66,124	11,110	10,400	9,730	8,970	8,400	7,840	7,280	6,710	6,150	5,580
$66,125 to $66,374	11,160	10,440	9,780	9,010	8,450	7,890	7,330	6,760	6,200	5,630
$66,375 to $66,624	11,200	10,490	9,820	9,060	8,500	7,940	7,380	6,810	6,250	5,680
$66,625 to $66,874	11,240	10,530	9,870	9,100	8,560	7,990	7,430	6,860	6,300	5,740
$66,875 to $67,124	11,290	10,570	9,910	9,150	8,610	8,040	7,480	6,910	6,350	5,790
$67,125 to $67,374	11,330	10,620	9,960	9,190	8,650	8,090	7,530	6,960	6,400	5,840
$67,375 to $67,624	11,380	10,660	10,000	9,240	8,690	8,140	7,580	7,010	6,450	5,890
$67,625 to $67,874	11,420	10,710	10,050	9,280	8,740	8,190	7,630	7,070	6,500	5,940
$67,875 to $68,124	11,470	10,750	10,080	9,320	8,780	8,240	7,680	7,120	6,550	5,990
$68,125 to $68,374	11,510	10,800	10,140	9,370	8,830	8,290	7,730	7,170	6,600	6,040
$68,375 to $68,624	11,560	10,840	10,180	9,410	8,870	8,330	7,780	7,220	6,650	6,090
$68,625 to $68,874	11,600	10,890	10,220	9,460	8,920	8,380	7,830	7,270	6,700	6,140
$68,875 to $69,124	11,650	10,930	10,270	9,500	8,960	8,420	7,880	7,320	6,750	6,190
$69,125 to $69,374	11,690	10,980	10,310	9,550	9,010	8,470	7,930	7,370	6,800	6,240
$69,375 to $69,624	11,740	11,020	10,360	9,590	9,050	8,510	7,970	7,420	6,850	6,290
$69,625 to $69,874	11,780	11,070	10,400	9,640	9,100	8,560	8,020	7,470	6,910	6,340
$69,875 to $70,124	11,830	11,110	10,450	9,680	9,140	8,600	8,060	7,520	6,960	6,390
$70,125 to $70,374	11,870	11,160	10,490	9,730	9,130	8,650	8,110	7,560	7,010	6,440
$70,375 to $70,624	11,910	11,200	10,540	9,770	9,230	8,690	8,150	7,610	7,060	6,490
$70,625 to $70,874	11,960	11,240	10,580	9,820	9,280	8,730	8,190	7,650	7,110	6,540
$70,875 to $71,124	12,000	11,290	10,630	9,860	9,320	8,780	8,240	7,700	7,160	6,590
$71,125 to $71,374	12,050	11,330	10,670	9,910	9,360	8,820	8,280	7,740	7,200	6,640
$71,375 to $71,624	12,090	11,380	10,720	9,950	9,410	8,870	8,330	7,790	7,250	6,700
$71,625 to $71,874	12,140	11,420	10,760	9,990	9,450	8,910	8,370	7,830	7,290	6,750
$71,875 to $72,124	12,180	11,470	10,810	10,040	9,500	8,960	8,420	7,880	7,340	6,800
$72,125 to $72,374	12,230	11,510	10,850	10,080	9,540	9,000	8,460	7,920	7,380	6,840
$72,375 to $72,624	12,270	11,560	10,890	10,130	9,590	9,050	8,510	7,970	7,430	6,890
$72,625 to $72,874	12,320	11,600	10,940	10,170	9,630	9,090	8,550	8,010	7,470	6,930
$72,875 to $73,124	12,360	11,650	10,980	10,220	9,680	9,140	8,600	8,060	7,520	6,970
$73,125 to $73,374	12,410	11,690	11,030	10,260	9,720	9,180	8,640	8,100	7,560	7,020
$73,375 to $73,624	12,450	11,740	11,070	10,310	9,770	9,230	8,690	8,140	7,600	7,060
$73,625 to $73,874	12,490	11,780	11,120	10,350	9,810	9,270	8,730	8,190	7,650	7,110
$73,875 to $74,124	12,540	11,830	11,160	10,400	9,860	9,320	8,770	8,230	7,690	7,150
$74,125 to $74,374	12,580	11,870	11,210	10,440	9,900	9,360	8,820	8,280	7,740	7,200
$74,375 to $74,624	12,630	11,910	11,250	10,490	9,950	9,400	8,860	8,320	7,780	7,240

Table A.—*Expected Family Contribution for a Dependent Student From a Two Parent Family*—Continued

Adjusted gross income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
$74,625 to $74,874	12,670	11,960	11,300	10,530	9,990	8,450	8,910	8,370	7,830	7,290
$74,875 to $75,124	12,720	12,000	11,340	10,570	10,030	9,490	8,950	8,410	7,870	7,330
$75,125 to $75,374	12,760	12,050	11,390	10,620	10,080	9,540	9,000	8,460	7,920	7,380
$75,375 to $75,624	12,810	12,090	11,430	10,660	10,120	9,580	9,040	8,500	7,960	7,420
$75,625 to $75,874	12,850	12,140	11,470	10,710	10,170	9,630	9,090	8,550	8,010	7,470
$75,875 to $76,124	12,900	12,180	11,520	10,750	10,210	9,670	9,130	8,590	8,050	7,510
$76,125 to $76,374	12,940	12,230	11,560	10,800	10,260	9,720	9,180	8,640	8,100	7,560
$76,375 to $76,674	12,990	12,270	11,610	10,840	10,300	9,760	9,220	8,680	8,140	7,600
$76,625 to $76,874	13,030	12,320	11,650	10,890	10,350	9,810	9,270	8,730	8,190	7,640
$76,875 to $77,124	13,080	12,360	11,700	10,930	10,390	9,850	9,310	8,770	8,230	7,690
$77,125 to $77,374	13,120	12,410	11,740	10,980	10,440	9,900	9,360	8,810	8,270	7,730
$77,375 to $77,624	13,160	12,450	11,790	11,020	10,480	9,940	9,400	8,860	8,320	7,780
$77,625 to $77,874	13,210	12,490	11,830	11,070	10,530	9,990	9,440	8,900	8,360	7,820
$77,875 to $78,124	13,250	12,540	11,880	11,110	10,570	10,030	9,490	8,950	8,410	7,870
$78,125 to $78,374	13,300	12,580	11,920	11,160	10,610	10,070	9,530	8,990	8,450	7,910
$78,375 to $78,624	13,340	12,630	11,970	11,200	10,660	10,120	9,580	9,040	8,500	7,960
$78,625 to $78,874	13,390	12,670	12,010	11,240	10,700	10,160	9,620	9,080	8,540	8,000
$78,875 to $79,124	13,430	12,720	12,060	11,290	10,750	10,210	9,670	9,130	8,590	8,050
$79,125 to $79,374	13,480	12,760	12,100	11,330	10,790	10,250	9,710	9,170	8,630	8,090
$79,375 to $79,624	13,520	12,810	12,140	11,380	10,840	10,300	9,760	9,220	8,680	8,140
$79,625 to $79,874	13,570	12,850	12,190	11,420	10,880	10,340	9,800	9,260	8,720	8,180
$79,875 to $80,124	13,610	12,900	12,230	11,470	10,930	10,390	9,850	9,310	8,770	8,220
$80,125 to $80,374	13,660	12,940	12,280	11,510	10,970	10,430	9,890	9,350	8,810	8,270
$80,375 to $80,624	13,700	12,990	12,320	11,560	11,020	10,480	9,940	9,400	8,850	8,310
$80,625 to $80,874	13,750	13,030	12,370	11,600	11,060	10,520	9,980	9,440	8,900	8,360
$80,875 to $81,124	13,790	13,080	12,410	11,650	11,110	10,570	10,020	9,480	8,940	8,400
$81,125 to $81,374	13,830	13,120	12,460	11,690	11,150	10,610	10,070	9,530	8,990	8,450
$81,375 to $81,624	13,880	13,160	12,500	11,740	11,200	10,650	10,110	9,570	9,030	8,490
$81,625 to $81,874	13,920	13,210	12,550	11,780	11,240	10,700	10,160	9,620	9,080	8,540
$81,875 to $82,124	13,970	13,250	12,590	11,830	11,280	10,740	10,200	9,660	9,120	8,580
$82,125 to $82,374	14,010	13,300	12,640	11,870	11,330	10,790	10,250	9,710	9,170	8,630
$82,375 to $82,624	14,060	13,340	12,680	11,910	11,370	10,830	10,290	9,750	9,210	8,670
$82,625 to $82,874	14,100	13,390	12,730	11,960	11,420	10,880	10,340	9,800	9,260	8,720
$82,875 to $83,124	14,150	13,430	12,770	12,000	11,460	10,920	10,380	9,840	9,300	8,760
$83,125 to $83,374	14,190	13,480	12,810	12,050	11,510	10,970	10,430	9,890	9,350	8,810
$83,375 to $83,624	14,240	13,520	12,860	12,090	11,550	11,010	10,470	9,930	9,390	8,850
$83,625 to $83,874	14,280	13,570	12,900	12,140	11,600	11,060	10,520	9,980	9,440	8,890
$83,875 to $84,124	14,330	13,610	12,950	12,180	11,640	11,100	10,560	10,020	9,480	8,940
$84,125 to $84,374	14,370	13,660	12,990	12,230	11,690	11,150	10,610	10,060	9,520	8,980
$84,375 to $84,624	14,410	13,700	13,040	12,270	11,730	11,190	10,650	10,110	9,570	9,030
$84,625 to $84,874	14,460	13,750	13,080	12,320	11,780	11,240	10,690	10,150	9,610	9,070
$84,875 to $85,124	14,500	13,790	13,130	12,360	11,820	11,280	10,740	10,200	9,660	9,120
$85,125 to $85,374	14,550	13,830	13,170	12,410	11,870	11,320	10,780	10,240	9,700	9,160
$85,375 to $85,624	14,590	13,880	13,220	12,450	11,910	11,370	10,830	10,290	9,750	9,210
$85,625 to $85,874	14,640	13,920	13,260	12,490	11,950	11,410	10,870	10,330	9,790	9,250
$85,875 to $86,124	14,680	13,970	13,310	12,540	12,000	11,460	10,920	10,380	9,840	9,300
$86,125 to $86,374	14,730	14,010	13,350	12,580	12,040	11,500	10,960	10,420	9,880	9,340
$86,375 to $86,624	14,770	14,060	13,390	12,630	12,090	11,550	11,010	10,470	9,930	9,390
$86,625 to $86,874	14,820	14,100	13,440	12,670	12,130	11,590	11,050	10,510	9,970	9,430
$86,875 to $87,124	14,860	14,150	13,480	12,720	12,180	11,640	11,100	10,560	10,020	9,480
$87,125 to $87,374	14,910	14,190	13,530	12,760	12,220	11,680	11,140	10,600	10,060	9,520
$87,375 to $87,624	14,950	14,240	13,570	12,810	12,270	11,730	11,190	10,650	10,100	9,560
$87,625 to $87,874	15,000	14,280	13,620	12,850	12,310	11,770	11,230	10,690	10,150	9,610
$87,875 to $88,124	15,040	14,330	13,660	12,900	12,360	11,820	11,280	10,730	10,190	9,650
$88,125 to $88,374	15,080	14,370	13,710	12,940	12,400	11,860	11,320	10,780	10,240	9,700
$88,375 to $88,624	15,130	14,410	13,750	12,990	12,450	11,900	11,360	10,820	10,280	9,740
$88,625 to $88,874	15,170	14,460	13,800	13,030	12,490	11,950	11,410	10,870	10,330	9,790
$88,875 to $89,124	15,210	14,500	13,840	13,080	12,530	11,990	11,450	10,910	10,370	9,830
$89,125 to $89,374	15,250	14,550	13,890	13,120	12,580	12,040	11,500	10,960	10,420	9,880
$89,375 to $89,624	15,290	14,590	13,930	13,160	12,620	12,080	11,540	11,000	10,460	9,920
$89,625 to $89,874	15,330	14,630	13,980	13,210	12,670	12,130	11,590	11,050	10,510	9,970
$89,875 to $90,124	15,360	14,670	14,020	13,250	12,710	12,170	11,630	11,090	10,550	10,010
$90,125 to $90,374	15,400	14,710	14,060	13,300	12,760	12,220	11,680	11,140	10,600	10,060
$90,375 to $90,624	15,440	14,750	14,110	13,340	12,800	12,260	11,720	11,180	10,640	10,100
$90,625 to $90,874	15,480	14,790	14,150	13,390	12,850	12,310	11,770	11,230	10,690	10,140
$90,875 to $91,124	15,520	14,830	14,190	13,430	12,890	12,350	11,810	11,270	10,730	10,190
$91,125 to $91,374	15,560	14,870	14,230	13,480	12,940	12,400	11,860	11,320	10,770	10,230
$91,375 to $91,624	15,600	14,910	14,270	13,520	12,980	12,440	11,900	11,360	10,820	10,280
$91,625 to $91,874	15,640	14,940	14,310	13,560	13,030	12,490	11,940	11,400	10,860	10,320
$91,875 to $92,124	15,670	14,980	14,340	13,600	13,070	12,530	11,990	11,450	10,910	10,370
$92,125 to $92,374	15,710	15,020	14,380	13,640	13,120	12,570	12,030	11,490	10,950	10,410
$92,375 to $92,624	15,750	15,060	14,420	13,690	13,160	12,620	12,080	11,540	11,000	10,460
$92,625 to $92,874	15,790	15,100	14,460	13,720	13,200	12,660	12,120	11,580	11,040	10,500
$92,875 to $93,124	15,830	15,140	14,500	13,760	13,240	12,710	12,170	11,630	11,090	10,550
$93,125 to $93,374	15,870	15,180	14,540	13,800	13,280	12,750	12,210	11,670	11,130	10,590
$93,375 to $93,624	15,910	15,220	14,580	13,830	13,320	12,800	12,260	11,720	11,180	10,640
$93,625 to $93,874	15,950	15,260	14,620	13,870	13,360	12,840	12,300	11,760	11,220	10,680
$93,875 to $94,124	15,980	15,290	14,650	13,910	13,390	12,880	12,350	11,810	11,270	10,730
$94,125 to $94,374	16,020	15,330	14,690	13,950	13,430	12,920	12,390	11,850	11,310	10,770
$94,375 to $94,624	16,060	15,370	14,730	13,990	13,470	12,960	12,440	11,900	11,360	10,810
$94,625 to $94,874	16,100	15,410	14,770	14,030	13,510	12,990	12,480	11,940	11,400	10,860
$94,875 to $95,124	16,140	15,450	14,810	14,070	13,550	13,030	12,520	11,980	11,440	10,900
$95,125 to $95,374	16,180	15,490	14,850	14,110	13,590	13,070	12,550	12,030	11,490	10,950
$95,375 to $95,624	16,220	15,530	14,880	14,140	13,630	13,110	12,590	12,070	11,530	10,990
$95,625 to $95,874	16,260	15,570	14,930	14,180	13,670	13,150	12,630	12,120	11,580	11,040
$95,875 to $96,124	16,290	15,600	14,960	14,220	13,710	13,190	12,670	12,150	11,620	11,080
$96,125 to $96,374	16,330	15,640	15,000	14,260	13,740	13,230	12,710	12,190	11,670	11,130
$96,375 to $96,624	16,370	15,680	15,040	14,300	13,780	13,270	12,750	12,230	11,710	11,170
$96,625 to $96,874	16,410	15,720	15,080	14,340	13,820	13,300	12,790	12,270	11,750	11,220
$96,875 to $97,124	16,450	15,760	15,120	14,380	13,860	13,340	12,830	12,310	11,790	11,260

Table A.—*Expected Family Contribution for a Dependent Student From a Two Parent Family*—Continued

Adjusted gross income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
$97,125 to $97,374	16,490	15,800	15,160	14,420	13,900	13,380	12,870	12,350	11,830	11,310
$97,375 to $97,624	16,530	15,840	15,200	14,450	13,940	13,420	12,900	12,390	11,870	11,350
$97,625 to $97,874	16,570	15,880	15,240	14,490	13,980	13,400	12,940	12,430	11,910	11,390
$97,875 to $98,124	16,600	15,910	15,270	14,530	14,020	13,500	12,980	12,460	11,950	11,430
$98,125 to $98,374	16,640	15,950	15,310	14,570	14,060	13,540	13,020	12,500	11,990	11,470
$98,375 to $98,624	16,680	15,980	15,350	14,610	14,080	13,580	13,060	12,540	12,020	11,510
$98,625 to $98,874	16,720	16,030	15,390	14,650	14,130	13,610	13,100	12,580	12,060	11,550
$98,875 to $99,124	16,760	16,070	15,430	14,690	14,170	13,650	13,140	12,620	12,100	11,590
$99,125 to $99,374	16,800	16,110	15,470	14,730	14,210	13,690	13,180	12,660	12,140	11,620
$99,375 to $99,624	16,840	16,150	15,510	14,760	14,250	13,730	13,210	12,700	12,180	11,660
$99,625 to $99,874	16,880	16,190	15,550	14,800	14,290	13,770	13,250	12,740	12,220	11,700
$99,875 to $100,124	16,920	16,220	15,590	14,840	14,330	13,810	13,290	12,770	12,260	11,740

As used in the table—

"Family members" include the student, the student's spouse and dependents, and the student's mother and father and their dependents. If the family includes a step-parent whose income is to be included in the adjusted gross income, family members also include the step-parent and the dependents of the step-parent.

B. Dependent Student From a One Parent Family

For a dependent student from a one parent family, the institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled in a postsecondary institution on at least a half-time basis.

Table B.—*Expected Family Contribution for a Dependent Student From a One Parent Family*

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
Less than 30001:											
$30,001 to $30,124	$2,420	$2,000	$1,540	$1,170	$760	$480	$170	$0	$0	$0	$0
$30,125 to $30,374	2,460	2,030	1,570	1,200	800	500	200	0	0	0	0
$30,375 to $30,624	2,510	2,070	1,600	1,230	830	540	230	0	0	0	0
$30,625 to $30,874	2,550	2,110	1,640	1,260	860	570	270	0	0	0	0
30,875 to $31,124	2,600	2,150	1,670	1,290	890	600	300	0	0	0	0
$31,125 to $31,374	2,640	2,190	1,710	1,320	920	630	330	30	0	0	0
$31,375 to $31,624	2,680	2,230	1,740	1,350	950	660	370	60	0	0	0
$31,625 to $31,874	2,730	2,280	1,780	1,380	980	690	400	100	0	0	0
$31,875 to $32,124	2,770	2,320	1,820	1,420	1,010	720	430	130	0	0	0
$32,125 to $32,374	2,810	2,360	1,860	1,450	1,040	750	460	160	0	0	0
$32,375 to $32,624	2,860	2,400	1,900	1,490	1,080	780	490	200	0	0	0
$32,625 to $32,874	2,910	2,450	1,940	1,520	1,110	810	520	230	0	0	0
$32,875 to $33,124	2,960	2,490	1,980	1,560	1,140	840	550	260	0	0	0
$33,125 to $33,374	3,010	2,530	2,010	1,590	1,170	880	580	290	0	0	0
$33,375 to $33,624	3,060	2,570	2,050	1,630	1,200	910	610	320	30	0	0
$33,625 to $33,874	3,110	2,620	2,090	1,660	1,230	940	640	350	60	0	0
$33,875 to $34,124	3,160	2,660	2,120	1,690	1,260	970	660	380	90	0	0
$34,125 to $34,374	3,210	2,700	2,160	1,720	1,290	1,000	710	410	120	0	0
34,375 to 34,624	3,260	2,740	2,200	1,760	1,320	1,030	740	440	150	0	0
$34,625 to $34,874	3,310	2,790	2,230	1,790	1,350	1,060	770	470	180	0	0
$34,875 to $35,124	3,360	2,840	2,270	1,820	1,380	1,090	800	510	210	0	0
$35,125 to $35,374	3,410	2,890	2,310	1,860	1,410	1,120	830	540	240	0	0
$35,375 to $35,624	3,470	2,940	2,360	1,900	1,440	1,150	860	570	270	0	0
$35,625 to $35,874	3,530	2,990	2,400	1,930	1,470	1,180	890	600	310	10	0
$35,875 to $36,124	3,590	3,040	2,440	1,970	1,510	1,210	920	630	340	40	0
$36,125 to $36,374	3,640	3,080	2,480	2,010	1,540	1,240	950	660	370	70	0
$36,375 to $36,624	3,700	3,140	2,530	2,040	1,570	1,270	980	690	400	110	0
$36,625 to $36,874	3,750	3,190	2,570	2,080	1,600	1,290	1,010	720	430	140	0
$36,875 to $37,124	3,810	3,240	2,610	2,110	1,630	1,320	1,040	750	460	170	0
$37,125 to $37,374	3,860	3,280	2,650	2,150	1,660	1,350	1,070	780	490	200	0
$37,375 to $37,624	3,910	3,330	2,700	2,190	1,690	1,380	1,100	810	520	230	0
$37,625 to $37,874	3,970	3,380	2,740	2,220	1,720	1,410	1,120	840	550	260	0
$37,875 to $38,124	4,020	3,420	2,780	2,260	1,760	1,440	1,150	870	580	290	0
$38,125 to $38,374	4,080	3,480	2,830	2,300	1,790	1,470	1,180	900	610	320	30
$38,375 to $38,624	4,130	3,530	2,870	2,350	1,820	1,500	1,210	930	640	350	60
$38,625 to $38,874	4,180	3,550	2,920	2,390	1,860	1,530	1,230	960	680	380	90
$38,875 to $39,124	4,240	3,640	2,970	2,430	1,900	1,560	1,260	990	700	410	120
$39,125 to $39,374	4,290	3,690	3,010	2,470	1,930	1,590	1,290	1,010	730	440	150
$39,375 to $39,624	4,350	3,750	3,060	2,510	1,970	1,620	1,320	1,040	760	470	180
$39,625 to $39,874	4,400	3,800	3,100	2,550	2,010	1,660	1,340	1,070	790	510	210
$39,875 to $40,124	4,460	3,850	3,150	2,590	2,040	1,690	1,370	1,090	810	530	240
$40,125 to $40,374	4,510	3,910	3,200	2,630	2,080	1,720	1,400	1,120	840	560	270
$40,375 to $40,624	4,560	3,960	3,240	2,670	2,110	1,750	1,430	1,150	870	590	310
$40,625 to $40,874	4,620	4,020	3,290	2,710	2,140	1,780	1,460	1,180	900	620	340
$40,875 to $41,124	4,670	4,070	3,330	2,750	2,180	1,820	1,500	1,200	920	640	360
$41,125 to $41,374	4,730	4,120	3,380	2,780	2,210	1,850	1,530	1,230	950	670	390
$41,375 to $41,624	4,780	4,180	3,430	2,830	2,240	1,890	1,560	1,260	980	700	420
$41,625 to $41,874	4,830	4,230	3,480	2,880	2,290	1,920	1,590	1,290	1,010	730	450
$41,875 to $42,124	4,890	4,290	3,530	2,920	2,320	1,950	1,620	1,310	1,030	750	470
$42,125 to $42,374	4,940	4,340	3,590	2,970	2,360	1,990	1,650	1,340	1,060	780	500
$42,375 to $42,624	5,000	4,390	3,640	3,010	2,400	2,020	1,680	1,370	1,090	810	530
$42,625 to $42,874	5,050	4,450	3,700	3,060	2,440	2,050	1,710	1,400	1,120	840	560
$42,875 to $43,124	5,100	4,500	3,750	3,110	2,480	2,090	1,740	1,430	1,140	860	580
$43,125 to $43,374	5,160	4,560	3,800	3,150	2,520	2,120	1,770	1,460	1,170	890	610
$43,375 to $43,624	5,210	4,610	3,860	3,200	2,560	2,150	1,800	1,490	1,200	920	640

Table B.—*Expected Family Contribution for a Dependent Student From a One Parent Family*—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
$43,625 to $43,874	5,270	4,660	3,910	3,240	2,590	2,190	1,830	1,520	1,230	950	670
$43,875 to $44,124	5,320	4,720	3,970	3,290	2,630	2,220	1,860	1,540	1,250	970	690
$44,125 to $44,374	5,370	4,770	4,020	3,340	2,670	2,250	1,900	1,570	1,280	1,000	720
$44,375 to $44,624	5,430	4,830	4,070	3,380	2,710	2,290	1,930	1,600	1,300	1,030	750
$44,625 to $44,874	5,480	4,880	4,130	3,430	2,750	2,330	1,960	1,630	1,330	1,060	780
$44,875 to $45,124	5,540	4,930	4,180	3,480	2,790	2,370	2,000	1,660	1,360	1,080	800
$45,125 to $45,374	5,590	4,990	4,240	3,540	2,840	2,410	2,030	1,690	1,380	1,110	830
$45,375 to $45,624	5,640	5,040	4,290	3,590	2,880	2,450	2,060	1,720	1,410	1,140	860
$45,625 to $45,874	5,700	5,100	4,340	3,640	2,930	2,490	2,100	1,750	1,440	1,160	890
$45,875 to $46,124	5,750	5,150	4,400	3,700	2,970	2,530	2,130	1,770	1,470	1,190	910
$46,125 to $46,374	5,810	5,200	4,450	3,750	3,020	2,570	2,160	1,810	1,500	1,210	940
$46,375 to $46,624	5,860	5,260	4,510	3,810	3,070	2,610	2,200	1,840	1,520	1,240	970
$46,625 to $46,874	5,910	5,310	4,560	3,860	3,110	2,650	2,230	1,870	1,550	1,260	990
$46,875 to $47,124	5,960	5,370	4,610	3,910	3,160	2,680	2,270	1,910	1,580	1,290	1,020
$47,125 to $47,374	6,000	5,420	4,670	3,970	3,200	2,720	2,310	1,940	1,610	1,310	1,040
$47,375 to $47,624	6,050	5,470	4,720	4,020	3,250	2,760	2,340	1,970	1,640	1,340	1,070
$47,625 to $47,874	6,090	5,530	4,780	4,080	3,300	2,800	2,380	2,010	1,670	1,360	1,090
$47,875 to $48,124	6,140	5,570	4,830	4,130	3,340	2,850	2,420	2,040	1,700	1,390	1,120
$48,125 to $48,374	6,180	5,620	4,890	4,180	3,390	2,900	2,460	2,070	1,730	1,420	1,140
$48,375 to $48,624	6,230	5,660	4,940	4,240	3,440	2,940	2,500	2,110	1,750	1,450	1,170
$48,625 to $48,874	6,270	5,710	4,990	4,290	3,490	2,990	2,540	2,140	1,780	1,480	1,190
$48,875 to $49,124	6,310	5,750	5,040	4,350	3,540	3,030	2,580	2,170	1,820	1,500	1,220
$49,125 to $49,374	6,360	5,790	5,790	4,400	3,600	3,080	2,620	2,210	1,850	1,530	1,240
$49,375 to $49,624	6,400	5,840	5,130	4,460	3,650	3,130	2,660	2,240	1,880	1,560	1,270
$49,625 to $49,874	6,450	5,880	5,170	4,510	3,710	3,170	2,700	2,280	1,920	1,590	1,290
$49,875 to $50,124	6,490	5,930	5,210	4,550	3,760	3,220	2,740	2,320	1,950	1,620	1,320
$50,125 to $50,374	6,540	5,970	5,260	4,600	3,810	3,260	2,770	2,360	1,980	1,650	1,350
$50,375 to $50,624	6,580	6,020	5,300	4,640	3,870	3,310	2,820	2,400	2,020	1,680	1,370
$50,625 to $50,874	6,630	6,060	5,350	4,690	3,920	3,360	2,860	2,430	2,050	1,710	1,400
$50,875 to $51,124	6,670	6,110	5,390	4,730	3,960	3,400	2,910	2,470	2,080	1,730	1,430
$51,125 to $51,374	6,720	6,150	5,440	4,780	4,010	3,450	2,960	2,510	2,120	1,760	1,460
$51,375 to $51,624	6,760	6,200	5,480	4,820	4,050	3,510	3,000	2,550	2,150	1,790	1,480
$51,625 to $51,874	6,810	6,240	5,530	4,860	4,100	3,560	3,050	2,590	2,180	1,830	1,510
$51,875 to $52,124	6,850	6,290	5,570	4,910	4,140	3,600	3,090	2,630	2,220	1,860	1,540
$52,125 to $52,374	6,890	6,330	5,620	4,950	4,180	3,650	3,140	2,670	2,250	1,890	1,570
$52,375 to $52,624	6,940	6,380	5,660	5,000	4,230	3,690	3,190	2,710	2,290	1,930	1,600
$52,625 to $52,874	6,980	6,420	5,710	5,040	4,280	3,740	3,230	2,750	2,330	1,960	1,630
$52,875 to $53,124	7,030	6,460	5,750	5,090	4,320	3,780	3,270	2,790	2,370	1,990	1,660
$53,125 to $53,374	7,070	6,510	5,790	5,130	4,370	3,830	3,310	2,830	2,410	2,030	1,690
$53,375 to $53,624	7,120	6,550	5,840	5,180	4,410	3,870	3,340	2,880	2,450	2,060	1,710
$53,625 to $53,874	7,160	6,600	5,880	5,220	4,460	3,910	3,380	2,920	2,490	2,090	1,740
$53,875 to $54,124	7,210	6,640	5,930	5,270	4,500	3,960	3,420	2,960	2,520	2,130	1,770
$54,125 to $54,374	7,250	6,690	5,970	5,310	4,540	4,000	3,460	3,000	2,560	2,160	1,800
$54,375 to $54,624	7,300	6,730	6,020	5,360	4,590	4,050	3,510	3,040	2,600	2,190	1,840
$54,625 to $54,874	7,340	6,780	6,060	5,400	4,630	4,090	3,550	3,070	2,640	2,230	1,870
$54,875 to $55,124	7,390	6,820	6,110	5,440	4,680	4,140	3,600	3,110	2,670	2,260	1,900
$55,125 to $55,374	7,430	6,870	6,150	5,490	4,720	4,180	3,640	3,150	2,710	2,300	1,940
$55,375 to $55,624	7,480	6,910	6,200	5,530	4,770	4,230	3,690	3,190	2,740	2,340	1,970
$55,625 to $55,874	7,520	6,960	6,240	5,580	4,810	4,270	3,730	3,230	2,770	2,380	2,000
$55,875 to $56,124	7,560	7,000	6,290	5,620	4,860	4,320	3,780	3,260	2,800	2,410	2,040
$56,125 to $56,374	7,610	7,050	6,330	5,670	4,900	4,360	3,820	3,300	2,840	2,440	2,070
$56,375 to $56,624	7,650	7,090	6,380	5,710	4,950	4,410	3,870	3,340	2,880	2,480	2,100
$56,625 to $56,874	7,700	7,130	6,420	5,760	4,990	4,450	3,910	3,380	2,920	2,510	2,140
$56,875 to $57,124	7,740	7,180	6,460	5,800	5,040	4,500	3,950	3,420	2,960	2,540	2,160
$57,125 to $57,374	7,790	7,220	6,510	5,850	5,080	4,540	4,000	3,460	2,990	2,570	2,190
$57,375 to $57,624	7,830	7,270	6,550	5,890	5,130	4,580	4,040	3,500	3,030	2,610	2,220
$57,625 to $57,874	7,880	7,310	6,600	5,940	5,170	4,630	4,090	3,550	3,070	2,640	2,250
$57,875 to $58,124	7,920	7,360	6,640	5,980	5,210	4,670	4,130	3,590	3,110	2,670	2,280
$58,125 to $58,374	7,970	7,400	6,690	6,030	5,260	4,720	4,180	3,640	3,150	2,700	2,310
$58,375 to $58,624	8,010	7,450	6,730	6,070	5,300	4,760	4,220	3,680	3,180	2,730	2,340
$58,625 to $58,874	8,060	7,490	6,780	6,110	5,350	4,810	4,270	3,730	3,220	2,770	2,380
$58,875 to $59,124	8,100	7,540	6,820	6,160	5,390	4,850	4,310	3,770	3,260	2,800	2,410
$58,125 to $59,374	8,140	7,580	6,870	6,200	5,440	4,900	4,360	3,820	3,300	2,840	2,440
$59,375 to $59,624	8,190	7,630	6,910	6,250	5,480	4,940	4,400	3,860	3,340	2,880	2,470
$59,625 to $59,874	8,230	7,670	6,960	6,290	5,530	4,990	4,450	3,910	3,370	2,910	2,500
$59,875 to $60,124	8,280	7,710	7,000	6,340	5,570	5,030	4,490	3,950	3,410	2,950	2,540
$60,125 to $60,374	8,320	7,760	7,050	6,380	5,620	5,080	4,540	3,990	3,450	2,990	2,570
$60,375 to $60,624	8,370	7,800	7,090	6,430	5,660	5,120	4,580	4,040	3,500	3,030	2,600
$60,625 to $60,874	8,410	7,850	7,130	6,470	5,710	5,170	4,620	4,080	3,540	3,070	2,630
$60,875 to $61,124	8,460	7,890	7,180	6,520	5,750	5,210	4,670	4,130	3,590	3,100	2,670
$61,125 to $61,374	8,500	7,940	7,220	6,560	5,790	5,250	4,710	4,170	3,630	3,140	2,700
$61,375 to $61,624	8,550	7,980	7,270	6,610	5,840	5,300	4,760	4,220	3,680	3,180	2,730
$61,625 to $61,874	8,590	8,030	7,310	6,650	5,880	5,340	4,800	4,260	3,720	3,220	2,760
$61,875 to $62,124	8,640	8,070	7,360	6,700	5,930	5,390	4,850	4,310	3,770	3,260	2,800
$62,125 to $62,374	8,680	8,120	7,400	6,740	5,970	5,430	4,890	4,350	3,810	3,290	2,830
$62,375 to $62,624	8,730	8,160	7,450	6,780	6,020	5,480	4,940	4,400	3,860	3,330	2,870
$62,625 to $62,874	8,770	8,210	7,490	6,830	6,060	5,520	4,980	4,440	3,900	3,370	2,910
$62,875 to $63,124	8,810	8,250	7,540	6,870	6,110	5,570	5,030	4,490	3,950	3,410	2,950
$63,125 to $63,374	8,840	8,300	7,580	6,920	6,150	5,610	5,070	4,530	3,990	3,450	2,990
$63,375 to $63,624	8,880	8,340	7,630	6,960	6,200	5,660	5,120	4,580	4,030	3,490	3,020
$63,625 to $63,874	8,920	8,380	7,670	7,010	6,240	5,700	5,160	4,620	4,080	3,540	3,060
$63,875 to $64,124	8,960	8,420	7,710	7,050	6,290	5,750	5,210	4,660	4,120	3,580	3,100
$64,125 to $64,374	9,000	8,460	7,760	7,100	6,330	5,790	5,250	4,710	4,170	3,630	3,140
$64,375 to $64,624	9,040	8,500	7,800	7,140	6,380	5,830	5,290	4,750	4,210	3,670	3,160
$64,625 to $64,874	9,080	8,540	7,850	7,190	6,420	5,880	5,340	4,800	4,260	3,720	3,210
$64,875 to $65,124	9,120	8,580	7,880	7,230	6,460	5,920	5,380	4,840	4,300	3,760	3,250
$65,125 to $65,374	9,150	8,610	7,920	7,260	6,510	5,970	5,430	4,890	4,350	3,810	3,290
$65,375 to $65,624	9,190	8,650	7,960	7,320	6,550	6,010	5,470	4,930	4,390	3,850	3,330
$65,625 to $65,874	9,230	8,690	8,000	7,360	6,600	6,060	5,520	4,980	4,440	3,900	3,370
$65,875 to $66,124	9,270	8,730	8,040	7,400	6,640	6,100	5,560	5,020	4,480	3,940	3,400

Table B.—*Expected Family Contribution for a Dependent Student From a One Parent Family*—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
$66,125 to $66,374	9,310	8,770	8,080	7,440	6,690	6,150	5,610	5,070	4,530	3,990	3,440
$66,375 to $66,624	9,350	8,810	8,120	7,480	6,730	6,190	5,650	5,110	4,570	4,030	3,490
$66,625 to $66,874	9,390	8,850	8,160	7,520	6,770	6,240	5,700	5,160	4,620	4,070	3,530
$66,875 to $67,124	9,430	8,890	8,190	7,560	6,810	6,280	5,740	5,200	4,660	4,120	3,580
$67,125 to $67,374	9,460	8,920	8,230	7,590	6,850	6,330	5,790	5,250	4,700	4,160	3,620
$67,375 to $67,624	9,500	8,960	8,270	7,630	6,890	6,370	5,830	5,290	4,750	4,210	3,670
$67,625 to $67,874	9,540	9,000	8,310	7,670	6,930	6,410	5,870	5,330	4,790	4,250	3,710
$67,875 to $68,124	9,580	9,040	8,350	7,710	6,970	6,450	5,920	5,380	4,840	4,300	3,760
$68,125 to $68,374	9,620	9,080	8,390	7,750	7,010	6,490	5,960	5,420	4,880	4,340	3,800
$68,375 to $68,624	9,660	9,120	8,430	7,790	7,050	6,530	6,010	5,470	4,930	4,390	3,850
$68,625 to $68,874	9,700	9,160	8,470	7,830	7,080	6,570	6,050	5,510	4,970	4,430	3,890
$68,875 to $69,124	9,740	9,200	8,500	7,870	7,120	6,610	6,090	5,560	5,020	4,480	3,940
$69,125 to $69,374	9,770	9,230	8,540	7,900	7,160	6,640	6,130	5,600	5,060	4,520	3,980
$69,375 to $69,624	9,810	9,270	8,580	7,940	7,200	6,680	6,170	5,650	5,110	4,570	4,030
$69,625 to $69,874	9,850	9,310	8,620	7,980	7,240	6,720	6,210	5,690	5,150	4,610	4,070
$69,875 to $70,124	9,890	9,350	8,660	8,020	7,280	6,760	6,240	5,730	5,200	4,660	4,110
$70,125 to $70,374	9,930	9,390	8,700	8,060	7,320	6,800	6,280	5,770	5,240	4,700	4,160
$70,375 to $70,624	9,970	9,430	8,740	8,100	7,360	6,840	6,320	5,800	5,290	4,740	4,200
$70,625 to $70,874	10,010	9,470	8,780	8,140	7,390	6,880	6,360	5,840	5,330	4,790	4,250
$70,875 to $71,124	10,050	9,510	8,810	8,180	7,430	6,920	6,400	5,880	5,360	4,830	4,290
$71,125 to $71,374	10,090	9,540	8,850	8,210	7,470	6,950	6,440	5,920	5,400	4,880	4,340
$71,375 to $71,624	10,120	9,580	8,890	8,250	7,510	6,990	6,480	5,960	5,440	4,920	4,380
$71,625 to $71,874	10,160	9,620	8,930	8,290	7,550	7,030	6,520	6,000	5,480	4,960	4,430
$71,875 to $72,124	10,200	9,660	8,970	8,330	7,590	7,070	6,550	6,040	5,520	5,000	4,470
$72,125 to $72,374	10,240	9,700	9,010	8,370	7,630	7,110	6,590	6,080	5,560	5,040	4,520
$72,375 to $72,624	10,280	9,740	9,050	8,410	7,670	7,150	6,630	6,110	5,600	5,080	4,560
$72,625 to $72,874	10,320	9,780	9,090	8,450	7,700	7,190	6,670	6,150	5,640	5,120	4,600
$72,875 to $73,124	10,360	9,820	9,120	8,490	7,740	7,230	6,710	6,190	5,680	5,160	4,640
$73,125 to $73,374	10,400	9,850	9,160	8,520	7,780	7,270	6,750	6,230	5,710	5,200	4,680
$73,375 to $73,624	10,430	9,890	9,200	8,560	7,820	7,300	6,790	6,270	5,750	5,240	4,720
$73,625 to $73,874	10,470	9,930	9,240	8,600	7,860	7,340	6,830	6,310	5,790	5,270	4,760
$73,875 to $74,124	10,510	9,970	9,280	8,640	7,900	7,380	6,860	6,350	5,830	5,310	4,800
$74,125 to $74,374	10,550	10,010	9,320	8,680	7,940	7,420	6,900	6,390	5,870	5,350	4,840
$74,375 to $74,624	10,590	10,050	9,360	8,720	7,980	7,460	6,940	6,420	5,910	5,390	4,870
$74,625 to $74,874	10,630	10,090	9,400	8,760	8,010	7,500	6,980	6,460	5,950	5,430	4,910
$74,875 to $75,124	10,670	10,130	9,440	8,800	8,050	7,540	7,020	6,500	5,990	5,470	4,950
$75,125 to $75,374	10,710	10,170	9,470	8,830	8,090	7,580	7,060	6,540	6,020	5,510	4,990
$75,375 to $75,624	10,740	10,200	9,510	8,870	8,130	7,610	7,100	6,580	6,060	5,550	5,030
$75,625 to $75,874	10,780	10,240	9,550	8,910	8,170	7,650	7,140	6,620	6,100	5,580	5,070
$75,875 to $76,124	10,820	10,280	9,590	8,950	8,210	7,690	7,170	6,660	6,140	5,620	5,110
$76,125 to $76,374	10,860	10,320	9,630	8,990	8,250	7,730	7,210	6,700	6,180	5,660	5,150
$76,375 to $76,624	10,900	10,360	9,670	9,030	8,290	7,770	7,250	6,730	6,220	5,700	5,180
$76,625 to $76,874	10,940	10,400	9,710	9,070	8,320	7,810	7,290	6,770	6,260	5,740	5,220
$76,875 to $77,124	10,980	10,440	9,750	9,110	8,360	7,850	7,330	6,810	6,300	5,780	5,260
$77,125 to $77,374	11,020	10,480	9,780	9,150	8,400	7,890	7,370	6,850	6,330	5,820	5,300
$77,375 to $77,624	11,050	10,510	9,820	9,180	8,440	7,920	7,410	6,890	6,370	5,860	5,340
$77,625 to $77,874	11,090	10,550	9,860	9,220	8,480	7,960	7,450	6,930	6,410	5,900	5,380
$77,875 to $78,124	11,130	10,590	9,900	9,260	8,520	8,000	7,480	6,970	6,450	5,930	5,420
$78,125 to $78,374	11,170	10,630	9,940	9,300	8,560	8,040	7,520	7,010	6,490	5,970	5,460
$78,375 to $78,624	11,210	10,670	9,980	9,340	8,600	8,080	7,560	7,050	6,530	6,010	5,490
$78,625 to $78,874	11,250	10,710	10,020	9,380	8,640	8,120	7,600	7,080	6,570	6,050	5,530
$78,875 to $79,124	11,290	10,750	10,060	9,420	8,670	8,160	7,640	7,120	6,610	6,090	5,570
$79,125 to $79,374	11,330	10,790	10,090	9,460	8,710	8,200	7,680	7,160	6,640	6,130	5,610
$79,375 to $79,624	11,360	10,820	10,130	9,490	8,750	8,230	7,720	7,200	6,680	6,170	5,650
$79,625 to $79,874	11,400	10,860	10,170	9,530	8,790	8,270	7,760	7,240	6,720	6,210	5,690
$79,875 to $80,124	11,440	10,900	10,210	9,570	8,830	8,310	7,790	7,280	6,760	6,240	5,730
$80,125 to $80,374	11,480	10,940	10,250	9,610	8,870	8,350	7,830	7,320	6,800	6,280	5,770
$80,375 to $80,624	11,520	10,980	10,290	9,650	8,910	8,390	7,870	7,360	6,840	6,320	5,800
$80,625 to $80,874	11,560	11,020	10,330	9,690	8,950	8,430	7,910	7,390	6,880	6,360	5,840
$80,875 to $81,124	11,600	11,060	10,370	9,730	8,980	8,470	7,950	7,430	6,920	6,400	5,880
$81,125 to $81,374	11,640	11,100	10,400	9,770	9,020	8,510	7,990	7,470	6,950	6,440	5,920
$81,375 to $81,624	11,670	11,130	10,440	9,800	9,060	8,540	8,030	7,510	6,990	6,480	5,960
$81,625 to $81,874	11,710	11,170	10,480	9,840	9,100	8,580	8,070	7,550	7,030	6,520	6,000
$81,875 to $82,124	11,750	11,210	10,520	9,880	9,140	8,620	8,110	7,590	7,070	6,550	6,040
$82,125 to $82,374	11,790	11,250	10,560	9,920	9,180	8,660	8,140	7,630	7,110	6,590	6,080
$82,375 to $82,624	11,830	11,290	10,600	9,960	9,220	8,700	8,180	7,670	7,150	6,630	6,110
$82,625 to $82,874	11,870	11,330	10,640	10,000	9,260	8,740	8,220	7,700	7,190	6,670	6,150
$82,875 to $83,124	11,910	11,370	10,680	10,040	9,290	8,780	8,260	7,740	7,230	6,710	6,190
$83,125 to $82,374	11,950	11,410	10,710	10,080	9,330	8,820	8,300	7,780	7,270	6,750	6,230
$83,375 to $83,624	11,980	11,440	10,750	10,110	9,370	8,850	8,340	7,820	7,300	6,790	6,270
$83,625 to $83,874	12,020	11,480	10,790	10,150	9,410	8,890	8,380	7,860	7,340	6,830	6,310
$83,875 to $84,124	12,060	11,520	10,830	10,190	9,450	8,930	8,420	7,900	7,380	6,860	6,350
$84,125 to $84,374	12,090	11,560	10,870	10,230	9,490	8,970	8,450	7,940	7,420	6,900	6,390
$84,375 to $84,624	12,130	11,600	10,910	10,270	9,530	9,010	8,490	7,980	7,460	6,940	6,420
$84,625 to $84,874	12,160	11,640	10,950	10,310	9,570	9,050	8,530	8,010	7,500	6,980	6,460
$84,875 to $85,124	12,190	11,670	10,990	10,350	9,600	9,090	8,570	8,050	7,540	7,020	6,500
$85,125 to $85,374	12,230	11,710	11,030	10,390	9,640	9,130	8,610	8,090	7,580	7,060	6,540
$85,375 to $85,624	12,260	11,740	11,060	10,420	9,680	9,160	8,650	8,130	7,610	7,100	6,580
$85,625 to $85,874	12,300	11,780	11,100	10,460	9,720	9,200	8,690	8,170	7,650	7,140	6,620
$85,875 to $86,124	12,330	11,810	11,140	10,500	9,760	9,240	8,730	8,210	7,690	7,170	6,660
$86,125 to $86,374	12,370	11,840	11,170	10,540	9,800	9,280	8,760	8,250	7,730	7,210	6,700
$86,375 to $86,624	12,400	11,880	11,210	10,580	9,840	9,320	8,800	8,290	7,770	7,250	6,730
$86,625 to $86,874	12,430	11,910	11,240	10,620	9,880	9,360	8,840	8,320	7,810	7,290	6,770
$86,875 to $87,124	12,470	11,950	11,270	10,650	9,910	9,400	8,880	8,360	7,850	7,330	6,810
$87,125 to $87,374	12,500	11,980	11,310	10,690	9,950	9,440	8,920	8,400	7,890	7,370	6,850
$87,375 to $87,624	12,540	12,010	11,340	10,720	9,990	9,480	8,960	8,440	7,920	7,410	6,890
$87,625 to $87,874	12,570	12,050	11,380	10,760	10,030	9,510	9,000	8,480	7,960	7,450	6,930
$87,875 to $88,124	12,600	12,080	11,410	10,790	10,070	9,550	9,040	8,520	8,000	7,480	6,970
$88,125 to $88,374	12,640	12,120	11,440	10,820	10,100	9,590	9,070	8,560	8,040	7,520	7,010
$88,375 to $88,624	12,670	12,150	11,480	10,860	10,130	9,630	9,110	8,600	8,080	7,560	7,050

Table B.—*Expected Family Contribution for a Dependent Student From a One Parent Family*—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
$88,625 to $88,874	12,710	12,180	11,510	10,890	10,170	9,670	9,150	8,640	8,120	7,600	7,080
$88,875 to $89,124	12,740	12,220	11,550	10,930	10,200	9,700	9,190	8,670	8,160	7,640	7,120
$89,125 to $89,374	12,770	12,250	11,580	10,960	10,240	9,740	9,230	8,710	8,200	7,680	7,160
$89,375 to $89,624	12,810	12,290	11,610	10,990	10,270	9,770	9,270	8,750	8,230	7,720	7,200
$89,625 to $89,874	12,840	12,320	11,650	11,030	10,300	9,810	9,310	8,790	8,270	7,760	7,240
$89,875 to $90,124	12,880	12,350	11,680	11,060	10,340	9,840	9,340	8,930	8,310	7,790	7,280
$90,125 to $90,374	12,910	12,390	11,720	11,100	10,370	9,870	9,380	8,870	8,350	7,830	7,320
$90,375 to $90,624	12,940	12,420	11,750	11,130	10,410	9,910	9,410	8,910	8,390	7,870	7,360
$90,625 to $90,874	12,980	12,460	11,790	11,160	10,440	9,940	9,440	8,950	8,430	7,910	7,390
$90,875 to $91,124	13,010	12,490	11,820	11,200	10,470	9,980	9,480	8,980	8,470	7,950	7,430
$91,125 to $91,374	13,050	12,530	11,850	11,230	10,510	10,010	9,510	9,010	8,510	7,990	7,470
$91,375 to $91,624	13,080	12,560	11,890	11,270	10,540	10,040	9,550	9,050	8,540	8,030	7,510
$91,625 to $91,874	13,120	12,590	11,920	11,300	10,580	10,80	9,580	9,080	8,580	8,070	7,550
$91,875 to $92,124	13,150	12,630	11,960	11,330	10,610	10,110	9,610	9,120	8,620	8,110	7,590
$92,125 to $92,374	13,180	12,660	11,990	11,370	10,650	10,150	9,650	9,150	8,650	8,140	7,630
$92,375 to $92,624	13,220	12,700	12,020	11,400	10,680	10,180	9,680	9,190	8,690	8,180	7,670
$92,625 to $92,874	13,250	12,730	12,060	11,440	10,710	10,220	9,720	9,220	8,720	8,220	7,700
$92,875 to $93,124	13,290	12,760	12,090	11,470	10,750	10,250	9,750	9,250	8,750	8,260	7,740
$93,125 to $93,374	13,320	12,800	12,130	11,510	10,780	10,280	9,790	9,290	8,790	8,290	7,780
$93,375 to $93,624	13,350	12,830	12,160	11,540	10,820	10,320	9,820	9,320	8,820	8,320	7,820
$93,625 to $93,874	13,390	12,879	12,190	11,570	10,850	10,350	9,850	9,360	8,860	8,360	7,869
$93,875 to $94,124	13,420	12,900	12,230	11,610	10,880	10,390	9,890	9,390	8,890	8,390	7,890
$94,125 to $94,374	13,460	12,930	12,260	11,640	10,920	10,420	9,920	9,420	8,930	8,430	7,930
$94,375 to $94,624	13,490	12,970	12,300	11,680	10,950	10,450	9,930	9,460	8,960	8,460	7,960
$94,625 to $94,874	13,520	13,000	12,330	11,710	10,990	10,490	9,990	9,490	8,990	8,550	8,000
$94,875 to $95,124	13,560	13,040	12,360	11,740	11,020	10,520	10,020	9,530	9,030	8,530	8,030
$95,125 to $95,374	13,590	13,070	12,400	11,780	11,050	10,560	10,060	9,560	9,060	8,560	8,070
$95,375 to $95,624	13,630	13,100	12,430	11,810	11,090	10,593	10,090	9,590	9,100	8,600	8,100
$95,625 to $95,874	13,600	13,140	12,470	11,850	11,120	10,620	10,130	9,630	9,130	8,630	8,130
$95,875 to $96,124	13,690	13,170	12,500	11,880	11,160	10,660	10,160	9,660	9,160	8,670	8,170
$96,125 to $96,374	13,730	13,210	12,530	11,910	11,190	10,690	10,190	9,700	9,200	8,700	8,200
$96,375 to $96,624	13,760	13,240	12,570	11,950	11,220	10,730	10,230	9,730	9,230	8,730	8,240
$96,625 to $96,874	13,800	13,280	12,600	11,980	11,260	10,760	10,260	9,760	9,270	8,770	8,270
$96,875 to $97,124	13,830	13,310	12,640	12,020	11,290	10,790	10,300	9,800	9,300	8,800	8,300
$97,125 to $97,374	13,860	13,340	12,670	12,050	11,330	10,830	10,330	9,830	9,330	8,840	8,340
$97,375 to $97,624	13,900	13,380	12,700	12,080	11,360	10,860	10,360	9,870	9,370	8,870	8,370
$97,625 to $97,874	13,930	13,410	12,740	12,120	11,400	10,900	10,400	9,900	9,400	8,900	8,410
$97,875 to $98,124	13,970	13,450	12,770	12,150	11,430	10,930	10,430	9,930	9,440	8,940	8,440
$98,125 to $98,374	14,000	13,480	12,810	12,190	11,460	10,960	10,470	9,970	9,470	8,970	8,470
$98,375 to $98,624	14,040	13,510	12,840	12,220	11,500	11,000	10,500	10,000	9,500	9,010	8,510
$98,625 to $98,874	14,070	13,550	12,880	12,260	11,530	11,080	10,530	10,040	9,540	9,040	8,540
$98,875 to $99,124	14,100	13,580	12,910	12,290	11,570	11,070	10,570	10,070	9,570	9,070	8,580
$99,125 to $59,374	14,140	13,620	12,940	12,320	11,600	11,100	10,600	10,100	9,610	9,110	8,610
$99,375 to $99,624	14,170	13,650	12,980	11,360	11,630	11,140	10,640	10,140	9,640	9,140	8,640
$99,625 to $99,874	14,210	13,680	13,010	12,390	11,670	11,170	10,670	10,170	9,670	9,180	8,680
$99,875 to $100,124	14,420	13,720	13,050	12,430	11,700	11,200	10,710	10,210	9,710	9,210	8,710

As used in the table—

"Adjusted gross income" means the adjusted gross income of the student, the student's spouse, if any, and the surviving parent as reported on the 1980 Federal income tax return, if one of the student's parents has died.

If the student's parents are divorced or separated, the adjusted gross income is the income of the student, the student's spouse, and the parent with whom the student resided for the greater portion of the 12 month period preceding the date of application. If the student did not reside with either parent during that period, the adjusted gross income is the income of the student, the student's spouse and the parent who provided the greater portion of the student's support for the 12 month period preceding the date of application. If the student did not reside with either parent or was not supported by either parent during that period, the adjusted gross income is the income of the student, the student's spouse, and the parent who provided the greater support for the period commencing January 1, 1980 and ending 12 months prior to the date of application.

"Family members" include the student, the student's spouse and dependents, the parent and the parent's dependents.

C. Married Independent Student

For a married independent student, the institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled in a postsecondary institution on at least a half-time basis.

The contributions set forth in Table C are based on a 12 month budget. If an institution calculates an independent student's budget on a 9 month basis, it must mutiply the contribution in the table by .75.

Table C.—*Expected Family Contribution of a Married Independent Student*

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
Less than $30,001:											
$30,001 to $30,124	$21,860	$21,980	$22,300	$22,620	$22,910	$23,190	$23,470	$23,750	$24,030	$24,270	$24,510
$30,125 to $30,374	21,770	22,090	22,410	22,730	23,040	23,320	23,600	23,880	24,160	24,400	24,640
$30,375 to $30,624	21,930	22,250	22,570	22,390	23,210	23,490	23,770	24,050	24,330	24,580	24,820
$30,625 to $30,874	22,090	22,410	22,730	23,050	23,370	23,660	23,940	24,220	24,500	24,760	25,000
$31,125 to $31,374	22,410	22,730	23,050	23,370	23,690	24,000	24,280	24,560	24,840	25,120	25,360
$31,375 to $31,624	22,570	22,890	23,210	23,530	23,850	24,170	24,450	24,730	25,010	25,290	25,540
$31,625 to $31,874	22,730	23,050	23,370	23,690	24,010	24,330	24,620	24,900	25,180	25,460	25,720
$31,875 to $32,124	22,890	23,210	23,530	23,850	24,170	24,490	24,790	25,070	25,350	25,630	25,900

Table C.—*Expected Family Contribution of a Married Independent Student*[1]—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
$32,125 to $32,374	23,040	23,370	23,690	24,110	24,330	24,650	24,960	25,240	25,520	25,800	26,090
$32,375 to $32,624	23,180	23,530	23,850	24,170	24,490	24,810	25,130	25,410	25,690	25,970	26,250
$32,625 to $32,874	23,330	23,690	24,010	24,330	24,650	24,970	25,290	25,580	25,860	26,140	26,420
$32,875 to $33,124	23,480	23,850	24,170	24,490	24,810	25,130	25,450	25,750	26,030	26,310	26,590
$33,125 to $33,374	23,530	24,000	24,330	24,650	24,970	25,290	25,610	25,920	26,200	26,480	26,760
$33,375 to $33,624	23,770	24,140	24,490	24,810	25,130	25,450	25,770	26,090	26,370	26,650	26,930
$33,625 to $33,874	23,920	24,290	24,650	24,970	25,290	25,610	25,930	26,250	26,540	26,820	27,100
$33,875 to $34,124	24,070	24,440	24,810	25,130	25,450	25,770	26,090	26,410	26,710	26,990	27,270
$34,125 to $34,374	24,220	24,590	24,960	25,290	25,610	25,930	26,250	26,570	26,880	27,160	27,440
$34,375 to $34,624	24,360	24,730	25,100	25,450	25,770	26,090	26,410	26,730	27,050	27,330	27,610
$34,625 to $34,874	24,510	24,880	25,250	25,610	25,930	26,250	26,570	26,890	27,210	27,500	27,780
$34,875 to $35,124	24,560	25,030	25,400	25,770	26,090	26,410	26,730	27,050	27,370	27,670	27,950
$35,125 to $35,374	24,810	25,180	25,550	25,920	26,250	26,570	26,890	27,210	27,530	27,840	28,120
$35,375 to $35,624	24,950	25,320	25,690	26,050	26,410	26,730	27,050	27,370	27,690	28,010	28,290
$35,625 to $35,874	25,100	25,470	25,840	26,210	26,570	26,890	27,210	27,530	27,850	28,170	28,460
$35,875 to $36,124	25,250	25,620	25,990	26,360	26,730	27,050	27,370	27,690	28,010	28,330	28,630
$36,125 to $36,374	25,400	25,770	26,140	26,510	26,880	27,210	27,530	27,850	28,170	28,490	28,800
$36,375 to $36,624	25,540	25,910	26,280	26,650	27,020	27,370	27,690	28,010	28,330	28,650	28,970
$36,625 to $36,874	25,690	26,060	26,430	26,800	27,170	27,530	27,850	28,170	28,490	28,810	29,130
$36,875 to $37,124	25,840	26,210	26,580	26,950	27,320	27,690	28,010	28,330	28,650	28,970	29,290
$37,125 to $37,374	25,980	26,360	26,730	27,100	27,470	27,840	28,170	28,490	28,810	29,130	29,450
$37,375 to $37,624	26,120	26,500	26,870	27,240	27,610	27,980	28,330	28,650	28,970	29,290	29,610
$37,625 to $37,874	26,250	26,650	27,020	27,390	27,760	28,130	28,490	28,810	29,130	29,450	29,770
$37,875 to $38,124	26,380	26,800	27,170	27,540	27,910	28,280	28,650	28,970	29,290	29,610	29,930
$38,125 to $38,374	26,510	26,940	27,320	27,690	28,060	28,430	28,800	29,130	29,450	29,770	30,090
$38,375 to $38,624	26,650	27,080	27,460	27,830	28,200	28,570	28,940	29,290	29,610	29,930	30,250
$38,625 to $38,874	26,780	27,210	27,610	27,980	28,350	28,720	29,090	29,450	29,770	30,090	30,410
$38,875 to $39,124	26,910	27,340	27,760	28,130	28,500	28,870	29,240	29,610	29,930	30,250	30,570
$39,125 to $39,374	27,040	27,470	27,900	28,280	28,650	29,020	29,390	29,760	30,090	30,410	30,730
$39,375 to $39,624	27,180	27,610	28,040	28,420	28,790	29,160	29,530	29,900	30,250	30,570	30,890
$39,625 to $39,874	27,310	27,740	28,170	28,570	28,940	29,310	29,680	30,050	30,410	30,730	31,050
$39,875 to $40,124	27,440	27,870	28,300	28,720	29,090	29,460	29,830	30,200	30,570	30,890	31,210
$40,125 to $40,374	27,570	28,000	28,430	28,860	29,240	29,610	29,980	30,350	30,720	31,050	31,370
$40,375 to $40,624	27,710	28,140	28,570	29,000	29,380	29,750	30,120	30,490	30,860	31,210	31,530
$40,625 to $40,874	27,840	28,270	28,700	29,130	29,530	29,900	30,270	30,640	31,010	31,370	31,690
$40,875 to $41,124	27,970	28,400	28,830	29,260	29,680	30,050	30,420	30,790	31,160	31,530	31,850
$41,125 to $41,374	28,100	28,530	28,960	29,390	29,820	30,200	30,570	30,940	31,310	31,680	32,010
$41,375 to $41,624	28,240	28,670	29,100	29,530	29,960	30,340	30,710	31,080	31,450	31,820	32,170
$41,625 to $41,874	28,370	28,800	29,230	29,660	30,090	30,490	30,860	31,230	31,600	31,970	32,360
$41,875 to $42,124	28,500	28,930	29,360	29,790	30,220	30,640	31,010	31,380	31,750	32,120	32,490
$42,125 to $42,374	28,630	29,060	29,490	29,920	30,360	30,780	31,160	31,530	31,900	32,270	32,640
$42,375 to $42,624	28,770	29,200	29,630	30,060	30,490	30,920	31,300	31,670	32,040	32,410	32,780
$42,625 to $42,874	28,900	29,330	29,760	30,190	30,620	31,050	31,460	31,820	32,190	32,560	32,960
$42,875 to $43,124	29,030	29,460	29,890	30,320	30,750	31,180	31,600	31,970	32,340	32,710	33,060
$43,125 to $43,374	29,160	29,590	30,020	30,450	30,880	31,310	31,740	32,120	32,490	32,860	33,230
$43,375 to $43,624	29,300	29,730	30,160	30,590	31,020	31,450	31,880	32,260	32,630	33,000	33,370
$43,625 to $43,874	29,430	29,860	30,290	30,720	31,150	31,580	32,010	32,410	32,780	33,150	33,520
$43,875 to $44,124	29,560	29,990	30,420	30,850	31,280	31,710	32,140	32,560	32,930	33,300	33,670
$44,125 to $44,374	29,590	30,120	30,550	30,980	31,410	31,840	32,270	32,700	33,080	33,450	33,820
$44,375 to $44,624	29,830	30,260	30,690	31,120	31,550	31,980	32,410	32,840	33,220	33,590	33,960
$44,625 to $44,874	29,960	30,390	30,820	31,250	31,680	32,110	32,540	32,970	33,370	33,740	34,110
$44,875 to $45,124	30,090	30,520	30,950	31,380	31,810	32,240	32,670	33,100	33,520	33,890	34,260
$45,125 to $45,374	30,220	30,650	31,080	31,510	31,940	32,370	32,800	33,230	33,660	34,040	34,410
$45,375 to $45,624	30,360	30,790	31,220	31,650	32,080	32,510	32,940	33,370	33,800	34,180	34,550
$45,625 to $45,874	30,490	30,920	31,350	31,780	32,210	32,640	33,070	33,500	33,930	34,330	34,700
$45,875 to $46,124	30,620	31,050	31,480	31,910	32,340	32,770	33,200	33,630	34,060	34,480	34,850
$46,125 to $46,374	30,750	31,180	31,610	32,040	32,470	32,900	33,330	33,760	34,190	34,620	35,000
$46,375 to $46,624	30,890	31,320	31,750	32,180	32,610	33,040	33,470	33,900	34,330	34,760	35,140
$46,625 to $46,874	31,020	31,450	31,880	32,310	32,740	33,170	33,600	34,030	34,460	34,890	35,290
$46,875 to $47,124	31,150	31,580	32,010	32,440	32,870	33,300	33,730	34,160	34,590	35,020	35,440
$47,125 to $47,374	31,280	31,710	32,140	32,570	33,000	33,430	33,860	34,290	34,720	35,150	35,580
$47,375 to $47,624	31,420	31,850	32,280	32,710	33,140	33,570	34,000	34,430	34,860	35,290	35,720
$47,625 to $47,874	31,550	31,980	32,410	32,840	33,270	33,700	34,130	34,560	34,990	35,420	35,850
$47,875 to $48,124	31,570	32,110	32,540	32,970	33,400	33,830	34,260	34,690	35,120	35,550	35,980
$48,125 to $48,374	31,790	32,240	32,670	33,100	33,530	33,960	34,390	34,820	35,250	25,680	36,110
$48,375 to $48,624	31,900	32,380	32,810	33,240	33,670	34,100	34,530	34,960	35,390	35,820	36,250
$48,625 to $48,874	32,020	32,510	32,940	33,370	33,800	34,230	34,660	35,090	35,520	35,950	36,380
$48,875 to $49,124	32,140	32,630	33,070	33,500	33,930	34,360	34,790	35,220	35,650	36,080	36,510
$49,125 to $49,374	32,260	32,750	33,200	33,630	34,060	34,490	34,920	35,350	35,780	36,210	36,640
$49,375 to $49,624	32,370	32,860	33,340	33,770	34,200	34,630	35,060	35,490	35,920	36,350	36,780
$49,625 to $49,874	32,390	32,980	33,470	33,900	34,330	34,760	35,190	35,620	36,050	36,480	36,910
$49,875 to $50,124	32,510	33,100	33,590	34,030	34,460	34,890	35,320	35,750	36,180	36,610	37,040
$50,125 to $50,374	32,730	33,220	33,710	34,160	34,590	35,020	35,450	35,880	36,310	36,740	37,170
$50,375 to $50,624	32,840	33,330	33,820	34,300	34,760	35,160	35,590	36,020	36,450	36,880	37,310
$50,625 to $50,874	32,960	33,450	33,940	34,430	34,860	35,290	35,720	36,150	36,580	37,010	37,440
$50,875 to $51,124	33,080	33,570	34,060	34,550	34,990	35,420	35,850	36,280	36,710	37,140	37,570
$51,125 to $51,374	33,200	33,690	34,180	34,670	35,120	35,550	35,980	36,410	36,840	37,270	37,700
$51,375 to $51,624	33,310	33,800	34,290	34,780	35,260	35,690	36,120	36,550	36,980	37,410	37,840
$51,625 to $51,874	33,430	33,920	34,410	34,900	35,390	35,820	36,250	36,680	37,110	37,540	37,970
$51,875 to $52,124	33,550	34,040	34,530	35,020	35,510	35,950	36,380	36,810	37,240	37,670	38,100
$52,125 to $52,374	33,570	34,160	34,650	35,140	35,630	36,080	36,510	36,940	37,370	37,800	38,230
$52,375 to $52,624	33,760	34,270	34,760	35,250	35,740	36,220	36,650	37,080	37,510	37,940	38,370
$52,625 to $52,874	33,900	34,390	34,880	35,370	35,860	35,350	36,780	37,210	37,640	38,070	38,500
$52,875 to $53,124	34,020	34,510	35,000	35,490	35,980	36,470	36,910	37,340	37,770	38,200	38,630
$53,125 to $53,374	34,140	34,630	35,120	35,610	36,100	36,590	37,040	37,470	37,900	38,330	38,760
$53,375 to $53,624	34,250	34,740	35,230	35,720	36,210	36,700	37,180	37,610	38,040	38,470	38,900
$53,625 to $53,874	34,370	34,860	35,350	35,840	36,330	36,820	37,310	37,740	38,170	38,600	39,030
$53,875 to $54,124	34,490	34,980	35,470	35,960	36,450	36,940	37,430	37,870	38,300	38,730	39,160
$54,125 to $54,374	34,510	35,100	35,590	36,080	36,570	37,060	37,550	38,000	38,430	38,860	39,290
$54,375 to $54,624	34,720	35,210	35,700	36,190	36,680	37,170	37,660	38,140	38,570	39,000	39,430

Table C.—*Expected Family Contribution of a Married Independent Student*[1]—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
$54,625 to $54,874	34,840	35,330	35,820	36,310	36,800	37,290	37,780	38,270	38,700	39,130	39,560
$54,875 to $55,124	34,960	35,450	35,940	36,430	36,920	37,410	37,900	38,390	38,830	39,260	39,690
$55,125 to $55,374	35,080	35,570	36,060	36,550	37,040	37,530	38,020	38,510	38,960	39,390	39,820
$55,375 to $55,624	35,190	35,680	36,170	36,660	37,150	37,640	38,130	38,620	39,100	39,530	39,960
$55,625 to $55,874	35,310	35,800	36,290	36,780	37,270	37,760	38,250	38,740	39,230	39,660	40,090
$55,875 to $56,124	35,430	35,920	36,410	36,900	37,390	37,880	38,370	38,860	39,350	39,790	40,220
$56,125 to $56,374	35,550	36,040	36,530	37,020	37,510	38,000	38,490	38,980	39,470	39,920	40,350
$56,375 to $56,624	35,560	36,150	36,640	37,130	37,620	38,110	38,600	39,090	39,580	40,060	40,490
$56,625 to $56,874	35,780	36,270	36,760	37,250	37,740	38,230	38,720	39,210	39,700	40,190	40,620
$56,875 to $57,124	35,900	36,390	36,880	37,370	37,860	38,350	38,840	39,330	39,820	40,310	40,750
$57,125 to $57,374	36,020	36,510	37,000	37,490	37,980	38,470	38,960	39,450	39,940	40,430	40,880
$57,375 to $57,624	36,130	36,620	37,110	37,600	38,090	38,580	39,070	39,560	40,050	40,540	41,020
$57,625 to $57,874	36,250	36,740	37,230	37,720	38,210	38,700	39,190	39,680	40,170	40,660	41,150
$57,875 to $58,124	36,370	36,860	37,350	37,840	38,330	38,820	39,310	39,800	40,290	40,780	41,270
$58,125 to $58,374	36,490	36,980	37,470	37,960	38,450	38,940	39,430	39,920	40,410	40,900	41,390
$58,375 to $58,624	36,600	37,090	37,580	38,070	38,560	39,050	39,540	40,030	40,520	41,010	41,500
$58,625 to $58,874	36,720	37,210	37,700	38,190	38,680	39,170	39,660	40,150	40,640	41,130	41,620
$58,875 to $59,124	36,840	37,330	37,820	38,310	38,800	39,290	39,780	40,270	40,760	41,250	41,740
$59,125 to $59,374	36,960	37,450	37,940	38,430	38,920	39,410	39,900	40,390	40,880	41,370	41,860
$59,375 to $59,624	37,070	37,560	38,050	38,540	39,030	39,520	40,010	40,500	40,990	41,480	41,970
$59,625 to $59,874	37,190	37,680	38,170	38,660	39,150	39,640	40,130	40,620	41,110	41,600	42,090
$59,875 to $60,124	37,310	37,800	38,290	38,780	39,270	39,760	40,250	40,740	41,230	41,720	42,210
$60,125 to $60,374	37,430	37,920	38,410	38,900	39,390	39,880	40,370	40,860	41,350	41,840	42,330
$60,375 to $60,624	37,540	38,030	38,520	39,010	39,500	39,990	40,480	40,970	41,460	41,950	42,440
$60,625 to $60,874	37,660	38,150	38,640	39,130	39,620	40,110	40,600	41,090	41,580	42,070	42,560
$60,875 to $61,124	37,780	38,270	38,760	39,250	39,740	40,230	40,720	41,210	41,700	42,190	42,680
$61,125 to $61,374	37,900	38,390	38,880	39,370	39,860	40,350	40,840	41,330	41,820	42,310	42,800
$61,375 to $61,624	38,010	38,500	38,990	39,480	39,970	40,460	40,950	41,440	41,930	42,420	42,910
$61,625 to $61,874	38,130	38,620	39,110	39,500	40,090	40,580	41,070	41,560	42,050	42,540	43,030
$61,875 to $62,124	38,250	38,740	39,230	39,720	40,210	40,700	41,190	41,680	42,170	42,660	43,150
$62,125 to $62,374	38,350	38,860	39,350	39,840	40,330	40,820	41,310	41,800	42,290	42,780	43,270
$62,375 to $62,624	38,460	38,970	39,460	39,950	40,440	40,930	41,420	41,910	42,400	42,890	43,380
$62,625 to $62,874	38,560	39,090	39,580	40,070	40,560	41,050	41,540	42,030	42,520	43,010	43,500
$62,875 to $63,124	38,670	39,210	39,700	40,190	40,680	41,170	41,660	42,150	42,640	43,130	43,620
$63,125 to $63,374	38,770	39,310	39,820	40,310	40,800	41,290	41,780	42,270	42,760	43,250	43,740
$63,375 to $63,624	38,880	39,420	39,930	40,420	40,910	41,400	41,890	42,380	42,870	43,360	43,850
$63,625 to $63,874	38,980	39,520	40,050	40,540	41,030	41,520	42,010	42,500	42,990	43,480	43,970
$63,875 to $64,124	39,090	39,630	40,170	40,660	41,150	41,640	42,130	42,620	43,110	43,600	44,090
$64,125 to $64,374	39,190	39,730	40,270	40,780	41,270	41,760	42,250	42,740	43,230	43,720	44,210
$64,375 to $64,624	39,300	39,840	40,380	40,390	41,380	41,870	42,360	42,850	43,340	43,830	44,320
$64,625 to $64,874	39,400	39,940	40,480	41,010	41,500	41,990	42,480	42,970	43,460	43,950	44,440
$64,875 to $65,124	39,510	40,050	40,590	41,130	41,620	42,110	42,600	43,090	43,580	44,070	44,560
$65,125 to $65,374	39,610	40,150	40,690	41,230	41,740	42,230	42,720	43,210	43,700	44,190	44,680
$65,375 to $65,624	39,720	40,260	40,800	41,340	41,850	42,340	42,830	43,320	43,810	44,300	44,790
$65,625 to $65,874	39,820	40,360	40,900	41,440	41,970	42,460	42,950	43,440	43,930	44,420	44,910
$65,875 to $66,124	39,930	40,470	41,010	41,550	42,090	42,580	43,070	43,560	44,050	44,540	45,030
$66,125 to $66,374	40,030	40,570	41,110	41,650	42,190	42,700	43,190	43,680	44,170	44,660	45,150
$66,375 to $66,624	40,140	40,680	41,220	41,760	42,300	42,810	43,300	43,790	44,280	44,770	45,260
$66,625 to $66,874	40,240	40,780	41,320	41,360	42,400	42,930	43,420	43,910	44,400	44,890	45,380
$66,875 to $67,124	40,350	40,890	41,430	41,970	42,510	43,050	43,540	44,030	44,520	45,010	45,500
$67,125 to $67,374	40,450	40,990	41,530	42,070	42,610	43,150	43,660	44,150	44,640	45,130	45,620
$67,375 to $67,624	40,560	41,100	41,640	42,180	42,720	43,260	43,770	44,260	44,750	45,240	45,730
$67,625 to $67,874	40,660	41,200	41,740	42,280	42,820	43,360	43,890	44,380	44,870	45,360	45,850
$67,875 to $68,124	40,770	41,310	41,850	42,390	42,930	43,470	44,010	44,500	44,990	45,480	45,970
$68,125 to $68,374	40,870	41,410	41,950	42,490	43,030	43,570	44,110	44,620	45,110	45,600	46,090
$68,375 to $68,624	40,980	41,520	42,060	42,500	43,140	43,680	44,220	44,730	45,220	45,710	46,200
$68,625 to $68,874	41,080	41,620	42,160	42,700	43,240	43,780	44,320	44,850	45,340	45,830	46,320
$68,875 to $69,124	41,190	41,730	42,270	42,310	43,350	43,890	44,430	44,970	45,460	45,950	46,440
$69,125 to $69,374	41,290	41,830	42,370	42,910	43,450	43,990	44,530	45,070	45,580	46,070	46,560
$69,375 to $69,624	41,400	41,940	42,480	43,020	43,560	44,100	44,640	45,180	45,690	46,180	46,670
$69,625 to $69,874	41,500	42,040	42,560	43,120	43,660	44,200	44,740	45,280	45,810	46,300	46,790
$69,875 to $70,124	41,610	42,150	42,690	43,230	43,770	44,310	44,850	45,390	45,930	46,420	46,910
$70,125 to $70,374	41,710	42,250	42,790	43,330	43,870	44,410	44,950	45,490	46,030	46,540	47,030
$70,375 to $70,624	41,820	42,360	42,900	43,440	43,980	44,520	45,060	45,600	46,140	46,650	47,140
$70,625 to $70,874	41,920	42,460	43,000	43,540	44,080	44,620	45,160	45,700	46,240	46,770	47,260
$70,875 to $71,124	42,030	42,570	43,110	43,650	44,190	44,730	45,270	45,810	46,350	46,890	47,380
$71,125 to $71,374	42,130	42,670	43,210	43,750	44,290	44,830	45,370	45,910	46,450	46,990	47,500
$71,375 to $71,624	42,240	42,780	43,320	43,860	44,400	44,940	45,480	46,020	46,560	47,100	47,610
$71,625 to $71,874	42,340	42,880	43,420	43,960	44,500	45,040	45,580	46,120	46,660	47,200	47,730
$71,875 to $72,124	42,450	42,990	43,530	44,070	44,610	45,150	45,690	46,230	46,770	47,310	47,850
$72,125 to $72,374	42,550	43,090	43,630	44,170	44,710	45,250	45,790	46,330	46,870	47,410	47,950
$72,375 to $72,624	42,660	43,200	43,740	44,280	44,820	45,360	45,900	46,440	46,980	47,520	48,060
$72,625 to $72,874	42,760	43,300	43,840	44,380	44,920	45,460	46,000	46,540	47,080	47,620	48,160
$72,875 to $73,124	42,870	43,410	43,950	44,490	45,030	45,570	46,110	46,650	47,190	47,730	48,270
$73,125 to $73,374	42,970	43,510	44,050	44,590	45,130	45,670	46,210	46,750	47,290	47,830	48,370
$73,375 to $73,624	43,080	43,620	44,160	44,700	45,240	45,780	46,320	46,860	47,400	47,940	48,480
$73,625 to $73,874	43,180	43,720	44,260	44,800	45,340	45,880	46,420	46,960	47,500	48,040	48,580
$73,875 to $74,124	43,290	43,830	44,370	44,910	45,450	45,990	46,530	47,070	47,610	48,150	48,690
$74,125 to $74,374	43,390	43,920	44,470	45,010	45,550	46,090	46,630	47,170	47,710	48,250	48,790
$74,375 to $74,624	43,500	44,040	44,580	45,120	45,660	46,200	46,740	47,280	47,820	48,360	48,900
$74,625 to $74,874	43,600	44,140	44,680	45,220	45,760	46,300	46,840	47,380	47,920	48,460	49,000
$74,875 to $75,124	43,710	44,250	44,790	45,330	45,870	46,410	46,950	47,490	48,030	48,570	49,110
$75,125 to $75,374	43,310	44,310	44,890	45,130	45,970	46,510	47,050	47,590	48,130	48,670	49,210
$75,375 to $75,624	43,920	44,460	45,000	45,540	46,080	46,620	47,160	47,700	48,240	48,780	49,320
$75,625 to $75,874	44,020	44,560	45,100	45,540	46,180	46,720	47,260	47,800	48,340	48,880	49,420
$75,875 to $76,124	44,130	44,670	45,210	45,750	46,290	46,830	47,370	47,910	48,450	48,990	49,530
$76,125 to $76,374	44,230	44,770	45,310	45,850	46,390	46,930	47,470	48,010	48,550	49,090	49,630
$76,375 to $76,624	44,340	44,880	45,420	45,960	46,500	47,040	47,580	48,120	48,660	49,200	49,740
$76,625 to $76,874	44,440	44,980	45,520	46,060	46,600	47,140	47,680	48,220	48,760	49,300	49,840
$76,875 to $77,124	44,550	45,090	45,630	46,170	46,710	47,250	47,790	48,330	48,870	49,410	49,950

Table C.—*Expected Family Contribution of a Married Independent Student*[1]—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
$77,125 to $77,374	44,650	45,190	45,730	46,270	46,810	47,350	47,890	48,430	48,970	49,510	50,050
$77,375 to $77,624	44,760	45,300	45,840	46,380	46,920	47,460	48,000	48,540	49,080	49,620	50,160
$77,625 to $77,874	44,860	45,400	45,940	46,480	47,020	47,560	48,100	48,640	49,180	49,720	50,260
$77,875 to $78,124	44,970	45,510	46,050	46,590	47,130	47,670	48,210	48,750	49,290	49,830	50,370
$78,125 to $78,374	45,070	45,610	46,150	46,690	47,230	47,770	48,310	48,850	49,390	49,930	50,470
$78,375 to $78,624	45,180	45,720	46,260	46,800	47,340	47,880	48,420	48,960	49,500	50,040	50,580
$78,625 to $78,874	45,280	45,820	46,360	46,900	47,440	47,980	48,520	49,060	49,600	50,140	50,680
$78,875 to $79,124	45,390	45,930	46,470	47,010	47,550	48,090	48,630	49,170	49,710	50,250	50,790
$79,125 to $79,374	45,490	46,030	46,570	47,110	47,650	48,190	48,730	49,270	49,810	50,350	50,890
$79,375 to $79,624	45,600	46,140	46,680	47,220	47,760	48,300	48,840	49,380	49,920	50,460	51,000
$79,625 to $79,874	45,700	46,240	46,780	47,320	47,860	48,400	48,940	49,480	50,020	50,560	51,100
$79,875 to $80,124	45,810	46,350	46,890	47,430	47,970	48,510	49,050	49,590	50,130	50,670	51,210
$80,125 to $80,374	45,910	46,450	46,990	47,530	48,070	48,610	49,150	49,690	50,230	50,770	51,310
$80,375 to $80,624	46,020	46,560	47,100	47,640	48,180	48,720	49,260	49,800	50,340	50,880	51,420
$80,625 to $80,874	46,120	46,660	47,200	47,740	48,280	48,820	49,360	49,900	50,440	50,980	51,520
$80,875 to $81,124	46,230	46,770	47,310	47,850	48,390	48,930	49,470	50,010	50,550	51,090	51,630
$81,125 to $81,374	46,330	46,870	47,410	47,950	48,490	49,030	49,570	50,110	50,650	51,190	51,730
$81,375 to $81,624	46,440	46,980	47,520	48,060	48,600	49,140	49,680	50,220	50,760	51,300	51,840
$81,625 to $81,874	46,540	47,080	47,620	48,160	48,700	49,240	49,780	50,320	50,860	51,400	51,940
$81,875 to $82,124	46,650	47,190	47,730	48,270	48,810	49,350	49,890	50,430	50,970	51,510	52,050
$82,125 to $82,374	46,750	47,290	47,830	48,370	48,910	49,450	49,990	50,530	51,070	51,610	52,150
$82,375 to $82,624	46,860	47,400	47,940	48,480	49,020	49,560	50,100	50,640	51,180	51,720	52,260
$82,625 to $82,874	46,960	47,500	48,040	48,580	49,120	49,660	50,200	50,740	51,280	51,820	52,360
$82,875 to $83,124	47,070	47,610	48,150	48,690	49,230	49,770	50,310	50,850	51,390	51,930	52,470
$83,125 to $83,374	47,170	47,710	48,250	48,790	49,330	49,870	50,410	50,950	51,490	52,030	52,570
$83,375 to $83,624	47,280	47,820	48,360	48,900	49,440	49,980	50,520	51,060	51,600	52,140	52,680
$83,625 to $83,874	47,380	47,920	48,460	49,000	49,540	50,080	50,620	51,160	51,700	52,240	52,780
$83,875 to $84,124	47,490	48,030	48,570	49,110	49,650	50,190	50,730	51,270	51,810	52,350	52,890
$84,125 to $84,374	47,590	48,130	48,670	49,210	49,750	50,290	50,830	51,370	51,910	52,450	52,990
$84,375 to $84,624	47,700	48,240	48,780	49,320	49,860	50,400	50,940	51,480	52,020	52,560	53,100
$84,625 to $84,874	47,800	48,340	48,880	49,420	49,960	50,500	51,040	51,580	52,120	52,660	53,200
$84,875 to $85,124	47,910	48,450	48,990	49,530	50,070	50,610	51,150	51,690	52,230	52,770	53,310
$85,125 to $85,374	48,010	48,550	49,090	49,630	50,170	50,710	51,250	51,790	52,330	52,870	53,410
$85,375 to $85,624	48,120	48,660	49,200	49,740	50,280	50,820	51,360	51,900	52,440	52,980	53,520
$85,625 to $85,874	48,220	48,760	49,300	49,340	50,380	50,920	51,460	52,000	52,540	53,080	53,620
$85,875 to $86,124	48,330	48,870	49,410	49,950	50,490	51,030	51,570	52,110	52,650	53,190	53,730
$86,125 to $86,374	48,430	48,970	49,510	50,050	50,590	51,130	51,670	52,210	52,750	53,290	53,830
$86,375 to $86,624	48,540	49,080	49,620	50,160	50,700	51,240	51,780	52,320	52,860	53,400	53,940
$86,625 to $86,874	48,640	49,180	49,720	50,260	50,800	51,340	51,880	52,420	52,960	53,500	54,040
$86,875 to $87,124	48,750	49,290	49,830	50,370	50,910	51,450	51,990	52,530	53,070	53,610	54,150
$87,125 to $87,374	48,850	49,390	49,930	50,470	51,010	51,550	52,090	52,630	53,170	53,710	54,250
$87,375 to $87,624	48,960	49,500	50,040	50,580	51,120	51,660	52,200	52,740	53,280	53,820	54,360
$87,625 to $87,874	49,060	49,600	50,140	50,680	51,220	51,760	52,300	52,840	53,380	53,920	54,460
$87,875 to $88,124	49,150	49,710	50,250	50,790	51,330	51,870	52,410	52,950	53,490	54,030	54,570
$88,125 to $88,374	49,240	49,810	50,350	50,890	51,430	51,970	52,510	53,050	53,590	54,130	54,670
$88,375 to $88,624	49,330	49,920	50,460	51,000	51,540	52,080	52,620	53,160	53,700	54,240	54,780
$88,625 to $88,874	49,430	50,020	50,560	51,100	51,640	52,180	52,720	53,260	53,800	54,340	54,880
$88,875 to $89,124	49,520	50,110	50,670	51,210	51,750	52,290	52,830	53,370	53,910	54,450	54,990
$89,125 to $89,374	49,910	50,200	50,770	51,310	51,850	52,390	52,930	53,470	54,010	54,550	55,090
$89,375 to $89,624	49,700	50,290	50,880	51,420	51,960	52,500	53,040	53,580	54,120	54,660	55,200
$89,625 to $89,874	49,300	50,390	50,960	51,520	52,060	52,600	53,140	53,680	54,220	54,760	55,300
$89,875 to $90,124	49,390	50,480	51,070	51,530	52,170	52,710	53,250	53,790	54,330	54,870	55,410
$90,125 to $90,374	49,980	50,570	51,160	51,730	52,270	52,810	53,350	53,890	54,430	54,970	55,510
$90,375 to $90,624	50,070	50,660	51,250	51,840	52,380	52,920	53,460	54,000	54,540	55,080	55,620
$90,625 to $90,874	50,170	50,760	51,350	51,940	52,480	53,020	53,560	54,100	54,640	55,180	55,720
$90,875 to $91,124	50,260	50,850	51,440	52,030	52,590	53,130	53,670	54,210	54,750	55,290	55,830
$91,125 to $91,374	50,350	50,940	51,530	52,120	52,690	53,230	53,770	54,310	54,850	55,390	55,930
$91,375 to $91,624	50,440	51,030	51,620	52,210	52,800	53,340	53,880	54,420	54,960	55,500	56,040
$91,625 to $91,874	50,540	51,130	51,720	52,310	52,900	53,440	53,960	54,520	55,060	55,600	56,140
$91,875 to $92,124	50,630	51,220	51,810	52,400	52,990	53,550	54,090	54,630	55,170	55,710	56,250
$92,125 to $92,374	50,720	51,310	51,900	52,490	53,080	53,650	54,190	54,730	55,270	55,810	56,350
$92,375 to $92,624	50,810	51,400	51,990	52,580	53,170	53,760	54,300	54,840	55,380	55,920	56,460
$92,625 to $92,874	50,910	51,500	52,090	52,680	53,270	53,860	54,400	54,940	55,480	56,020	56,560
$92,875 to $93,124	51,000	51,590	52,180	52,770	53,360	53,950	54,510	55,050	55,590	56,130	56,670
$93,125 to $93,374	51,090	51,680	52,270	52,860	53,450	54,040	54,610	55,150	55,690	56,230	56,770
$93,375 to $93,624	51,180	51,770	52,360	52,950	53,540	54,130	54,720	55,260	55,800	56,340	56,880
$93,625 to $93,874	51,280	51,870	52,460	53,050	53,640	54,230	54,820	55,360	55,900	56,440	56,980
$93,875 to $94,124	51,370	51,960	52,550	53,140	53,730	54,320	54,910	55,470	56,010	56,550	57,090
$94,125 to $94,374	51,460	52,050	52,640	53,230	53,820	54,410	55,000	55,570	56,110	56,650	57,190
$94,375 to $94,624	51,550	52,140	52,730	53,320	53,910	54,500	55,090	55,680	56,220	56,760	57,300
$94,625 to $94,874	51,650	52,240	52,830	53,420	54,010	54,600	55,190	55,780	56,320	56,860	57,400
$94,875 to $95,124	51,740	52,330	52,920	53,510	54,100	54,690	55,280	55,870	56,430	56,970	57,510
$95,125 to $95,374	51,830	52,420	53,010	53,600	54,190	54,780	55,370	55,960	56,530	57,070	57,610
$95,375 to $95,624	51,920	52,510	53,100	53,690	54,280	54,870	55,460	56,050	56,640	57,180	57,720
$95,625 to $95,874	52,020	52,610	53,200	53,790	54,380	54,970	55,560	56,150	56740	57,280	57,820
$95,875 to $96,124	52,110	52,700	53,290	53,880	54,470	55,060	55,650	56,240	56,830	57,390	57,930
$96,125 to $96,374	52,200	52,790	53,380	53,970	54,560	55,150	55,740	56,330	56,920	57,490	58,030
$96,375 to $96,624	52,290	52,880	53,470	54,060	54,650	55,240	55,830	56,420	57,010	57,600	58,140
$96,625 to $96,874	52,390	52,980	53,570	54,160	54,750	55,340	55,930	56,520	57,110	57,700	58,240
$96,875 to $97,124	52,480	53,070	53,660	54,250	54,840	55,430	56,020	56,610	57,200	57,790	58,350
$97,125 to $97,374	52,570	53,160	53,750	54,340	54,930	55,520	56,110	56,700	57,290	57,880	58,450
$97,375 to $97,624	52,660	53,250	53,840	54,430	55,020	55,610	56,200	56,790	57,380	57,970	58,560
$97,625 to $97,874	52,760	53,350	53,940	54,530	55,120	55,710	56,300	56,890	57,480	58,070	58,660
$97,875 to $98,124	52,850	53,440	54,030	54,620	55,210	55,800	56,390	56,980	57,570	58,160	58,750
$98,125 to $98,374	52,940	53,530	54,120	54,710	55,300	55,890	56,480	57,070	57,660	58,250	58,840
$98,375 to $98,624	53,030	53,620	54,210	54,800	55,390	55,980	56,570	57,160	57,750	58,340	58,930
$98,625 to $98,874	53,130	53,720	54,310	54,900	55,490	56,080	56,670	57,260	57,850	58,440	59,030
$98,875 to $99,124	53,220	53,810	54,400	54,990	55,580	56,170	56,760	57,350	57,940	58,530	59,120
$99,125 to $99,374	53,310	53,900	54,490	55,080	55,670	56,260	56,850	57,440	58,030	58,620	59,210
$99,375 to $99,624	53,400	53,990	54,580	55,170	55,760	56,350	56,940	57,530	58,120	58,710	59,300

Table C.—*Expected Family Contribution of a Married Independent Student*[1]—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
$99,625 to $99,874	53,500	54,090	54,680	55,270	55,860	56,450	57,040	57,630	58,220	58,810	59,400
$99,875 to $100,124	53,590	54,180	54,770	55,360	55,950	56,540	57,130	57,720	58,310	58,900	59,490

[1] Based on a 12 month budget. Multiply contribution by .75 if a 9 month budget is used.

As used in the table—"Adjusted gross income" means the adjusted gross income of the student and the student's spouse as reported on their 1980 Federal income tax return.

"Family members" include the student, the student's spouse and their dependents.

D. Single Independent Student

For a single independent student, the institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled in a postsecondary institution on at least a half-time basis.

The contributions set forth in Table D are based on a 12 month budget. If an institution calculates an independent student's budget on a 9 month basis, it must multiply the contribution in the table by .75.

Table D.—*Expected Family Contribution of a Single Independent Student*[1]

Adjusted gross income	Number of family members										
	1	2	3	4	5	6	7	8	9	10	11	12
Less than $30,001												
$30,001 to $30,124	$20,300	$20,680	$21,040	$21,400	$21,760	$22,120	$22,450	$22,760	$23,070	$23,380	$23,690	$24,000
$30,125 to $30,374	20,400	20,790	21,150	21,510	21,870	22,230	22,570	22,880	23,190	23,500	23,810	24,120
$30,375 to $30,624	20,530	20,940	21,300	21,660	22,020	22,380	22,740	23,050	23,360	23,670	23,980	24,290
$30,625 to $30,874	20,570	21,090	21,450	21,810	22,170	22,530	22,890	23,210	23,520	23,830	24,140	24,450
$30,875 to $31,124	20,800	21,220	21,600	21,960	22,320	22,680	23,040	23,370	23,680	23,990	24,300	24,610
$31,125 to $31,374	20,940	21,360	21,750	22,110	22,470	22,830	23,190	23,530	23,840	24,150	24,460	24,770
$31,375 to $31,624	21,070	21,490	21,900	22,260	22,620	22,980	23,340	23,700	24,010	24,320	24,630	24,940
$31,625 to $31,874	21,210	21,630	22,050	22,410	22,770	23,130	23,490	23,850	24,170	24,480	24,790	25,100
$31,875 to $32,124	21,340	21,760	22,180	22,560	22,920	23,280	23,640	24,000	24,330	24,640	24,950	25,260
$32,125 to $32,374	21,480	21,900	22,320	22,710	23,070	23,430	23,790	24,150	24,490	24,800	25,110	25,420
$32,375 to $32,624	21,610	22,030	22,450	22,860	23,220	23,580	23,940	24,300	24,660	24,970	25,280	25,590
$32,625 to $32,874	21,750	22,170	22,590	23,010	23,370	23,730	24,090	24,450	24,810	25,130	25,440	25,750
$32,875 to $33,124	21,880	22,300	22,720	23,140	23,520	23,880	24,240	24,600	24,960	25,290	25,600	25,910
$33,125 to $33,374	22,020	22,440	22,860	23,280	23,670	24,030	24,390	24,750	25,110	25,450	25,760	26,070
$33,375 to $33,624	22,150	22,570	22,990	23,410	23,820	24,180	24,540	24,900	25,260	25,620	25,930	26,240
$33,625 to $33,874	22,290	22,710	23,130	23,550	23,970	24,330	24,690	25,050	25,410	25,770	26,090	26,400
$33,875 to $34,124	22,420	22,840	23,260	23,680	24,100	24,480	24,840	25,200	25,560	25,920	26,250	26,560
$34,125 to $34,374	22,560	22,980	23,400	23,820	24,240	24,630	24,990	25,350	25,710	26,070	26,410	26,720
$34,375 to $34,624	22,690	23,110	23,530	23,950	24,370	24,780	25,140	25,500	25,860	26,220	26,560	26,890
$34,625 to $34,874	22,830	23,250	23,670	24,090	24,510	24,930	25,290	25,650	26,010	26,370	26,730	27,050
$34,875 to $35,124	22,960	23,380	23,800	24,220	24,640	25,060	25,440	25,800	26,160	26,520	26,880	27,210
$35,125 to $35,374	23,090	23,520	23,940	24,360	24,780	25,200	25,590	25,950	26,310	26,670	27,030	27,370
$35,375 to $35,624	23,220	23,650	24,070	24,490	24,910	25,330	25,740	26,100	26,460	26,820	27,180	27,540
$35,625 to $35,874	23,340	23,790	24,210	24,630	25,050	25,470	25,890	26,250	26,610	26,970	27,330	27,690
$35,875 to $36,124	23,470	23,920	24,340	24,760	25,180	25,600	26,020	26,400	26,760	27,120	27,480	27,840
$36,125 to $36,374	23,590	24,050	24,480	24,900	25,320	25,740	26,160	26,550	26,910	27,270	27,630	27,990
$36,375 to $36,624	23,720	24,180	24,610	25,030	25,450	25,870	26,290	26,700	27,060	27,420	27,780	28,140
$36,625 to $36,874	23,840	24,300	24,750	25,170	25,590	26,010	26,430	26,850	27,210	27,570	27,930	28,290
$36,875 to $37,124	23,970	24,430	24,880	25,300	25,720	26,140	26,560	26,980	27,360	27,720	28,080	28,440
$37,125 to $37,374	24,090	24,550	25,010	25,440	25,860	26,280	26,700	27,120	27,510	27,870	28,230	28,590
$37,375 to $37,624	24,220	24,680	25,140	25,570	25,990	26,410	26,830	27,250	27,660	28,020	28,380	28,740
$37,625 to $37,874	24,340	24,800	25,260	25,710	26,130	26,550	26,970	27,390	27,810	28,170	28,530	28,890
$37,875 to $38,124	24,470	24,930	25,390	25,840	26,260	26,680	27,100	27,520	27,940	28,320	28,680	29,040
$38,125 to $38,374	24,590	25,050	25,510	25,970	26,400	26,820	27,240	27,660	28,080	28,470	28,830	29,190
$38,375 to $38,624	24,720	25,180	25,640	26,100	26,530	26,950	27,370	27,790	28,210	28,620	28,980	29,340
$38,625 to $38,874	24,340	25,300	25,760	26,220	26,670	27,090	27,510	27,930	28,350	28,770	29,130	29,490
$38,875 to $39,124	24,970	25,430	25,890	26,350	26,800	27,220	27,640	28,060	28,480	28,900	29,280	29,640
$39,125 to $39,374	25,090	25,550	26,010	26,470	26,930	27,360	27,780	28,200	28,620	29,040	29,430	29,790
$39,375 to $39,624	25,220	25,680	26,140	26,600	27,060	27,490	27,910	28,330	28,750	29,170	29,580	29,940
$39,625 to $39,874	25,340	25,800	26,260	26,720	27,180	27,630	28,050	28,470	28,890	29,310	29,730	30,090
$39,875 to $40,124	25,470	25,930	26,390	26,850	27,310	27,760	28,180	28,600	29,020	29,440	29,860	30,240
$40,125 to $40,374	25,590	26,050	26,510	26,970	27,430	27,890	28,320	28,740	29,160	29,580	30,000	30,390
$40,375 to $40,624	25,720	26,180	26,640	27,100	27,560	28,020	28,450	28,870	29,290	29,710	30,130	30,540
$40,625 to $40,874	25,840	26,300	26,760	27,220	27,680	28,140	28,590	29,010	29,430	29,850	30,270	30,690
$40,875 to $41,124	25,970	26,430	26,890	27,350	27,810	28,270	28,720	29,140	29,560	29,980	30,400	30,820
$41,125 to $41,374	26,090	26,550	27,010	27,470	27,930	28,390	28,850	29,280	29,700	30,120	30,540	30,960
$41,375 to $41,624	26,220	26,680	27,140	27,600	28,060	28,520	28,980	29,410	29,830	30,250	30,670	31,090
$41,625 to $41,874	26,340	26,800	27,260	27,720	28,180	28,640	29,100	29,550	29,970	30,390	30,810	31,230
$41,875 to $42,124	26,470	26,930	27,390	27,850	28,310	28,770	29,230	29,680	30,100	30,520	30,940	31,360
$42,125 to $42,374	26,590	27,050	27,510	27,970	28,430	28,890	29,350	29,810	30,240	30,660	31,080	31,500
$42,375 to $42,624	26,720	27,180	27,640	28,100	28,560	29,020	29,480	29,940	30,370	30,790	31,210	31,630
$42,625 to $42,874	26,540	27,300	27,760	28,220	28,680	29,140	29,600	30,060	30,510	30,930	31,350	31,770
$42,875 to $43,124	26,970	27,430	27,890	28,350	28,810	29,270	29,730	30,190	30,640	31,060	31,480	31,900
$43,125 to $43,374	27,090	27,550	28,010	28,470	28,930	29,390	29,850	30,310	30,770	31,200	31,620	32,040
$43,375 to $43,624	27,220	27,680	28,140	28,600	29,060	29,520	29,980	30,440	30,900	31,330	31,750	32,170
$43,625 to $43,874	27,340	27,800	28,260	28,720	29,180	29,640	30,100	30,560	31,020	31,470	31,890	32,310
$43,875 to $44,124	27,470	27,930	28,390	28,850	29,310	29,770	30,230	30,690	31,150	31,600	32,020	32,440
$44,125 to $44,374	27,590	28,050	28,510	28,970	29,430	29,890	30,350	30,810	31,270	31,730	32,160	32,580
$44,375 to $44,624	27,720	28,180	28,640	29,100	29,560	30,020	30,480	30,940	31,400	31,860	32,290	32,710
$44,875 to $44,874	27,340	28,300	28,760	29,220	29,680	30,140	30,600	31,060	31,520	31,980	32,430	32,850
$44,625 to $45,124	27,970	28,430	28,890	9,350	29,810	30,270	30,730	31,190	31,650	32,110	32,560	32,980
$45,125 to $45,374	28,090	28,550	29,010	29,470	29,930	30,390	30,850	31,310	31,770	32,230	32,690	33,120

Table D.—*Expected Family Contribution of a Single Independent Student*[1]—Continued

Adjusted gross income	Number of family members											
	1	2	3	4	5	6	7	8	9	10	11	12
$45,375 to $45,624	28,220	28,680	29,140	29,600	30,060	30,520	30,980	31,440	31,900	32,360	32,820	33,250
$45,625 to $45,874	28,340	28,800	29,260	29,720	30,180	30,640	31,100	31,560	32,020	32,480	32,940	33,390
$45,875 to $46,124	28,440	28,920	29,390	29,850	30,310	30,770	31,230	31,690	32,150	32,610	33,070	33,520
$46,125 to $46,374	28,550	29,050	29,510	29,970	30,480	30,890	31,350	31,810	32,270	32,730	33,190	33,650
$46,375 to $46,624	28,650	29,180	29,640	30,100	30,560	31,020	31,480	31,940	32,400	32,860	33,320	33,780
$46,625 to $46,874	28,760	29,300	29,760	30,220	30,680	31,140	31,600	32,060	32,520	32,980	33,440	33,900
$46,875 to $47,124	28,860	29,400	29,890	30,350	30,810	31,270	31,730	32,190	32,650	33,110	33,570	34,030
$47,125 to $47,374	26,970	29,510	30,010	30,470	30,930	31,390	31,850	32,310	32,770	33,230	33,690	34,150
$47,375 to $47,624	29,070	29,610	30,140	30,500	31,060	31,520	31,980	32,440	32,900	33,360	33,820	34,280
$47,625 to $47,874	29,180	29,720	30,260	30,720	31,180	31,640	32,100	32,560	33,020	33,480	33,940	34,440
$47,875 to $48,124	29,280	29,820	30,360	30,850	31,310	31,770	32,230	32,690	33,150	33,610	34,070	34,530
$48,125 to $48,374	29,390	29,930	30,470	30,970	31,430	31,890	32,350	32,810	33,270	33,730	34,190	34,650
$48,375 to $48,624	29,490	30,030	30,570	31,100	31,560	32,020	32,480	32,940	33,400	33,860	34,320	34,780
$48,625 to $48,874	29,600	30,140	30,680	31,220	31,660	32,140	32,600	33,060	33,520	33,980	34,440	34,900
$48,875 to $49,124	29,700	30,240	30,780	31,320	31,810	32,270	32,730	33,190	33,650	34,110	34,570	35,030
$49,125 to $49,374	29,810	30,350	30,890	31,430	31,930	32,390	32,850	33,310	33,770	34,230	34,690	35,150
$49,375 to $49,624	29,910	30,450	30,990	31,530	32,060	32,520	32,980	33,440	33,900	34,360	34,820	35,280
$49,625 to $49,874	30,020	30,560	31,100	31,640	32,180	32,640	33,100	33,560	34,020	34,480	34,940	35,400
$49,875 to $50,124	30,120	30,660	31,200	31,740	32,280	32,770	33,230	33,690	34,150	34,610	35,070	35,530
$50,125 to $50,374	30,230	30,770	31,310	31,850	32,390	32,890	33,350	33,810	34,270	34,730	35,190	35,650
$50,375 to $50,624	30,330	30,870	31,410	31,950	32,490	33,020	33,480	33,940	34,400	34,860	35,320	35,780
$50,625 to $50,874	30,440	30,980	31,520	32,060	32,600	33,140	33,600	34,060	34,520	34,980	35,440	35,900
$50,875 to $51,124	30,540	31,080	31,620	32,160	32,700	33,240	33,730	34,190	34,650	35,110	35,570	36,030
$51,125 to $51,374	30,650	31,190	31,730	32,270	32,810	33,350	33,850	34,310	34,770	35,230	35,690	36,150
$51,375 to $51,624	30,750	31,290	31,830	32,370	32,910	33,450	33,980	34,440	34,900	35,360	35,820	36,280
$51,625 to $51,874	30,860	31,400	31,940	32,480	33,020	33,560	34,100	34,560	35,020	35,480	35,940	36,400
$51,875 to $52,124	30,960	31,500	32,040	32,580	33,120	33,660	34,200	34,690	35,150	35,610	36,070	36,530
$52,125 to $52,374	31,070	31,610	32,150	32,690	33,230	33,770	34,310	34,810	35,270	35,730	36,190	36,650
$52,375 to $52,624	31,170	31,710	32,250	32,790	33,330	33,870	34,410	34,940	35,400	35,860	36,320	36,783
$52,625 to $52,874	31,280	31,820	32,360	32,900	33,440	33,980	34,520	35,060	35,520	35,980	36,440	36,900
$52,875 to $53,124	31,380	31,920	32,460	33,000	33,540	34,080	34,620	35,160	35,650	36,110	36,570	37,030
$53,125 to $53,374	31,490	32,030	32,570	33,110	33,650	34,190	34,730	35,270	35,770	36,230	36,690	37,150
$53,375 to $53,624	31,590	32,130	32,670	33,210	33,750	34,290	34,830	35,370	35,900	36,360	36,820	37,280
$53,625 to $53,874	31,700	32,240	32,780	33,320	33,860	34,400	34,940	35,480	36,020	36,480	36,940	37,400
$53,875 to $54,124	31,800	32,340	32,880	33,420	33,960	34,500	35,040	35,580	36,120	36,610	37,070	37,530
$54,125 to $54,374	31,910	32,450	32,990	33,530	34,070	34,610	35,150	35,690	36,230	36,730	37,190	37,650
$54,375 to $54,624	32,010	32,550	33,090	33,630	34,170	34,710	35,250	35,790	36,330	36,860	37,320	37,780
$54,625 to $54,874	32,120	32,660	33,200	33,740	34,280	34,820	35,360	35,900	36,440	36,960	37,440	37,900
$54,875 to $55,124	32,220	32,760	33,300	33,840	34,380	34,920	35,460	36,000	36,540	37,080	37,570	38,030
$55,125 to $55,374	32,330	32,870	33,410	33,950	34,490	35,030	35,570	36,110	36,650	37,190	37,690	38,150
$55,375 to $55,624	32,430	32,970	33,510	34,050	34,590	35,130	35,670	36,210	36,750	37,290	37,820	38,280
$55,625 to $55,874	32,540	33,080	33,620	34,160	34,700	35,240	35,780	36,320	36,860	37,400	37,940	38,400
$55,875 to $56,124	32,640	33,180	33,720	34,260	34,800	35,340	35,880	36,420	36,960	37,500	38,040	38,530
$56,125 to $56,374	32,750	33,290	33,830	34,370	34,910	35,450	35,990	36,530	37,070	37,610	38,150	38,650
$56,375 to $56,624	32,850	33,390	33,930	34,470	35,010	35,550	36,090	36,630	37,170	37,710	38,250	38,780
$56,625 to $56,874	32,960	33,500	34,040	34,580	35,120	35,660	36,200	36,740	37,280	37,820	38,360	38,900
$56,875 to $57,124	33,060	33,600	34,140	34,680	35,220	35,760	36,300	36,840	37,380	37,920	38,460	39,000
$57,125 to $57,374	33,170	33,710	34,250	34,790	35,330	35,870	36,410	36,950	37,490	38,030	38,570	39,110
$57,375 to $57,624	33,270	33,810	34,350	34,890	35,430	35,970	36,510	37,050	37,590	38,130	38,670	39,210
$57,625 to $57,874	33,380	33,920	34,460	35,000	35,540	36,080	36,620	37,160	37,700	38,240	38,780	39,320
$57,875 to $58,124	33,480	34,020	34,560	35,100	35,640	36,180	36,720	37,260	37,800	38,340	38,880	39,420
$58,125 to $58,374	33,590	34,130	34,670	35,210	35,750	36,290	36,830	37,370	37,910	38,450	38,990	39,530
$58,375 to $58,624	33,690	34,230	34,770	35,310	35,850	36,390	36,930	37,470	38,010	38,550	39,090	39,630
$58,625 to $58,874	33,800	34,340	34,880	35,420	35,960	36,500	37,040	37,580	38,120	38,660	39,200	39,740
$58,875 to $59,124	33,900	34,440	34,980	35,520	36,060	36,600	37,140	37,680	38,220	38,760	39,300	39,840
$59,125 to $59,374	34,010	34,550	35,090	35,630	36,170	36,710	37,250	37,790	38,330	38,870	39,410	39,950
$59,375 to $59,624	34,110	34,650	35,190	35,730	36,270	36,810	37,350	37,890	38,430	38,970	39,510	40,050
$59,625 to $59,874	34,220	34,760	35,300	35,840	36,380	36,920	37,460	38,000	38,540	39,080	39,620	40,160
$59,875 to $60,124	34,320	34,860	35,400	35,940	36,480	37,020	37,560	38,100	38,640	39,180	39,720	40,260
$60,125 to $60,374	34,430	34,970	35,510	36,050	36,590	37,130	37,670	38,210	38,750	39,290	39,830	40,370
$60,375 to $60,624	34,530	35,070	35,610	36,150	36,690	37,230	37,770	38,310	38,850	39,390	39,930	40,470
$60,625 to $60,874	34,540	35,180	35,720	36,260	36,800	37,340	37,880	38,420	38,960	39,500	40,040	40,580
$60,875 to $61,124	34,740	35,280	35,820	36,360	36,900	37,440	37,980	38,520	39,060	39,600	40,140	40,680
$61,125 to $61,374	34,850	35,390	35,930	36,470	37,010	37,550	38,090	38,630	39,170	39,710	40,250	40,790
$61,375 to $61,624	34,950	35,490	36,030	36,570	37,110	37,650	38,190	38,730	39,270	39,810	40,350	40,890
$61,625 to $61,874	35,050	35,600	36,140	36,680	37,220	37,760	38,300	38,840	39,380	39,920	40,460	41,000
$61,875 to $62,124	35,140	35,700	36,240	36,780	37,320	37,860	38,400	38,940	39,480	40,020	40,560	41,100
$62,125 to $62,374	35,240	35,810	36,350	36,890	37,430	37,970	38,510	39,050	39,590	40,130	40,670	41,210
$62,375 to $62,624	35,330	35,910	36,450	36,990	37,530	38,070	38,610	39,150	39,690	40,230	40,770	41,310
$62,625 to $62,874	35,420	36,010	36,560	37,100	37,640	38,180	38,720	39,260	39,800	40,340	40,880	41,420
$62,875 to $63,124	35,510	36,100	36,660	37,200	37,740	38,280	38,820	39,360	39,900	40,440	40,980	41,520
$63,125 to $63,374	35,610	36,200	36,770	37,310	37,850	38,390	38,930	39,470	40,010	40,550	41,090	41,630
$63,375 to $63,624	35,700	36,290	36,870	37,410	37,950	38,490	39,030	39,570	40,110	40,650	41,190	41,730
$63,625 to $73,564	35,790	36,380	36,970	37,520	38,060	38,600	39,140	39,680	40,220	40,760	41,300	41,840
$63,875 to $64,124	35,880	36,470	37,060	37,620	38,160	38,700	39,240	39,780	40,320	40,860	41,400	41,940
$64,125 to $64,374	35,960	36,570	37,160	37,730	38,270	38,810	39,350	39,890	40,430	40,970	41,510	42,050
$64,375 to $64,624	36,060	36,660	37,250	37,830	38,370	38,910	39,450	39,990	40,530	41,070	41,610	42,150
$64,625 to $64,874	36,160	36,750	37,340	37,930	38,480	39,020	39,560	40,100	40,640	41,180	41,720	42,260
$64,875 to $65,124	36,250	36,840	37,430	38,020	38,580	39,120	39,660	40,200	40,740	41,280	41,820	42,360
$65,125 to $65,374	36,350	36,940	37,530	38,120	38,690	39,230	39,770	40,310	40,850	41,390	41,930	42,470
$65,375 to $65,624	36,440	37,030	37,620	38,210	38,790	39,330	39,870	40,410	40,950	41,490	42,030	42,570
$65,625 to $65,874	36,530	37,120	37,710	38,300	38,890	39,440	39,980	40,520	41,060	41,600	42,140	42,680
$65,875 to $66,124	36,620	37,210	37,800	38,390	38,980	39,540	40,080	40,620	41,160	41,700	42,240	42,780
$66,125 to $66,374	36,720	37,310	37,900	38,490	39,080	39,650	40,190	40,730	41,270	41,810	42,350	42,890
$66,375 to $66,624	36,810	37,400	37,990	38,580	39,170	39,750	40,290	40,830	41,370	41,910	42,450	42,990
$66,625 to $66,874	36,900	37,490	38,080	38,670	39,260	39,850	40,400	40,940	41,480	42,020	42,560	43,100
$66,875 to $67,124	36,990	37,580	38,170	38,760	39,350	39,940	40,500	41,040	41,580	42,120	42,660	43,200
$67,125 to $67,374	37,090	37,680	38,270	38,860	39,450	40,040	40,610	41,150	41,690	42,230	42,770	43,310
$67,375 to $67,624	37,180	37,770	38,360	38,950	39,540	40,130	40,710	41,250	41,790	42,330	42,870	43,410
$67,625 to $67,874	37,270	37,860	38,450	39,040	39,630	40,220	40,810	41,360	41,900	42,440	42,980	43,520

Table D.—*Expected Family Contribution of a Single Independent Student*[1]—Continued

Adjusted gross income	Number of family members											
	1	2	3	4	5	6	7	8	9	10	11	12
$67,875 to $68,124	37,360	37,950	38,540	39,130	39,720	40,310	40,900	41,460	42,000	42,540	43,080	43,620
$68,125 to $68,374	37,460	38,050	38,640	39,230	39,820	40,410	41,000	41,570	42,110	42,650	43,190	43,730
$68,375 to $68,624	37,550	38,140	38,730	39,320	39,910	40,500	41,090	41,670	42,210	42,750	43,290	43,830
$68,625 to $68,874	37,640	38,230	38,820	39,410	40,000	40,590	41,180	41,770	42,320	42,860	43,400	43,940
$68,875 to $69,124	37,730	38,320	38,910	39,500	40,090	40,680	41,270	41,860	42,420	42,960	43,500	44,040
$69,125 to $69,374	37,830	38,420	39,010	39,600	40,190	40,780	41,370	41,960	42,530	43,070	43,610	44,150
$69,375 to $69,624	37,920	38,510	39,100	39,690	40,280	40,870	41,460	42,050	42,630	43,170	43,710	44,250
$69,625 to $69,874	38,010	38,600	39,190	39,780	40,370	40,960	41,550	42,140	42,730	43,280	43,820	44,360
$69,875 to $70,124	38,100	38,690	39,280	39,870	40,460	41,050	41,640	42,230	42,820	43,380	43,920	44,460
$70,125 to $70,374	38,200	38,790	39,380	39,970	40,560	41,150	41,740	42,330	42,920	43,490	44,030	44,570
$70,375 to $70,624	38,290	38,880	39,470	40,060	40,650	41,240	41,830	42,420	43,010	43,590	44,130	44,670
$70,625 to $70,874	38,380	38,970	39,560	40,150	40,740	41,330	41,920	42,510	43,100	43,690	44,240	44,780
$70,875 to $71,124	38,470	39,060	39,650	40,240	40,830	41,420	42,010	42,600	43,190	43,780	44,340	44,880
$71,125 to $71,374	38,570	39,160	39,750	40,340	40,930	41,520	42,110	42,700	43,290	43,880	44,450	44,990
$71,375 to $71,624	38,660	39,250	39,840	40,430	41,020	41,610	42,200	42,790	43,380	43,970	44,550	45,090
$71,625 to $71,874	38,750	39,340	39,930	40,520	41,110	41,700	42,290	42,880	43,470	44,060	44,650	45,200
$71,875 to $72,124	38,840	39,430	40,020	40,610	41,200	41,790	42,380	42,970	43,560	44,150	44,740	45,300
$72,125 to $72,374	38,940	39,530	40,120	40,710	41,300	41,890	42,480	43,070	43,660	44,250	44,840	45,410
$72,375 to $72,624	39,030	39,620	40,210	40,800	41,390	41,980	42,570	43,160	43,750	44,340	44,930	45,510
$72,625 to $72,874	39,120	39,710	40,300	40,890	41,480	42,070	42,660	43,250	43,840	44,430	45,020	45,610
$72,875 to $73,124	39,210	39,800	40,390	40,980	41,570	42,160	42,750	43,340	43,930	44,520	45,110	45,700
$73,125 to $73,374	39,310	39,900	40,490	41,080	41,670	42,260	42,850	43,440	44,030	44,620	45,210	45,800
$73,375 to $73,624	39,400	39,990	40,580	41,170	41,760	42,350	42,940	43,530	441,20	44,710	45,300	45,890
$73,625 to $73,874	39,490	40,080	40,670	41,260	4,1850	42,440	43,030	43,620	44,210	44,800	45,390	45,980
$73,875 to $74,124	39,580	40,170	40,760	41,350	41,940	42,530	43,120	43,710	44,300	44,890	45,480	46,070
$74,125 to $74,374	39,680	40,270	40,860	41,450	42,040	42,630	43,220	43,810	44,400	44,990	45,580	46,170
$74,375 to $74,624	39,770	40,360	40,950	41,540	42,130	42,720	43,310	43,900	44,490	45,080	45,670	46,260
$74,625 to $74,874	39,860	40,450	41,040	41,630	42,220	42,810	43,400	43,990	44,580	45,170	45,760	46,350
$74,875 to $75,124	39,950	40,540	41,130	41,720	42,310	42,900	43,490	44,080	44,670	45,260	45,850	46,440
$75,125 to $75,374	40,050	40,640	41,230	41,820	42,410	43,000	43,590	44,180	44,770	45,360	45,950	46,540
$75,375 to $75,624	40,140	40,730	41,320	41,910	42,500	43,090	43,680	44,270	44,860	45,450	46,040	46,630
$75,625 to $75,874	40,230	40,820	41,410	42,000	42,590	43,180	43,770	44,360	44,950	45,540	46,130	46,720
$75,875 to $76,124	40,320	40,910	41,500	42,090	42,680	43,270	43,860	44,450	45,040	45,630	46,220	46,810
$76,125 to $76,374	40,420	41,010	41,600	42,190	42,780	43,370	43,960	44,550	45,140	45,730	46,320	46,910
$76,375 to $76,624	40,510	41,100	41,690	42,280	42,870	43,460	44,050	44,640	45,230	45,820	46,410	47,000
$76,625 to $76,874	40,600	41,190	41,780	42,370	42,960	43,550	44,140	44,730	45,320	45,910	46,500	47,090
$76,875 to $77,124	40,690	41,280	41,870	42,460	43,050	43,640	44,230	44,820	45,410	46,000	46,590	47,180
$77,125 to $77,374	40,790	41,380	41,970	45,560	43,150	43,740	44,330	44,920	45,510	46,100	46,690	47,280
$77,375 to $77,624	40,880	41,470	42,060	42,650	43,240	43,830	44,420	45,010	45,600	46,190	46,780	47,370
$77,625 to $77,874	40,970	41,560	42,150	42,740	43,330	43,920	44,510	45,100	45,690	46,280	46,870	47,460
$77,875 to $78,124	41,060	41,650	42,240	42,830	43,420	44,010	44,600	45,190	45,780	46,370	46,960	47,550
$78,125 to $78,374	41,160	41,750	42,340	42,930	43,520	44,110	44,700	45,290	45,880	46,470	47,060	47,650
$78,375 to $78,624	41,250	41,840	42,430	43,020	43,610	44,200	44,790	45,380	45,970	46,560	47,150	47,740
$78,625 to $78,874	41,340	41,930	42,520	43,110	43,700	44,290	44,880	45,470	46,060	46,650	47,240	47,830
$78,875 to $79,124	41,430	42,020	42,610	43,200	43,790	44,380	44,970	45,560	46,150	46,740	47,330	47,920
$79,125 to $79,374	41,530	42,120	42,710	43,300	43,890	44,480	45,070	45,660	46,250	46,840	47,430	48,020
$79,375 to $79,624	41,620	42,210	42,800	43,390	43,980	44,570	45,160	45,750	46,340	46,930	47,520	48,110
$79,625 to $79,874	41,710	42,300	42,890	43,480	44,070	44,660	45,250	45,840	46,430	47,020	47,610	48,200
$79,875 to $80,124	41,800	42,390	42,980	43,570	44,160	44,750	45,340	45,930	46,520	47,110	47,700	48,290
$80,125 to $80,374	41,900	42,490	43,080	43,670	44,260	44,850	45,440	46,030	46,620	47,210	47,800	48,390
$80,375 to $80,624	41,990	42,580	43,170	43,760	44,350	44,940	45,530	46,120	46,710	47,300	47,890	48,480
$80,625 to $80,874	42,080	42,670	43,260	43,850	44,440	45,030	45,620	46,210	46,800	47,390	47,980	48,570
$80,875 to $81,124	42,170	42,760	43,350	43,940	44,530	45,120	45,710	46,300	46,890	47,480	48,070	48,660
$81,125 to $81,374	42,270	42,860	43,450	44,040	44,630	45,220	45,810	46,400	46,990	47,580	48,170	48,760
$81,375 to $81,624	42,360	42,950	43,540	44,130	44,720	45,310	45,900	46,490	47,080	47,670	48,260	48,850
$81,625 to $81,874	42,450	43,040	43,630	44,220	44,810	45,400	45,990	46,580	47,170	47,760	48,350	48,940
$81,875 to $82,124	42,540	43,130	43,720	44,310	44,900	45,490	46,080	46,670	47,260	47,850	48,440	49,030
$82,125 to $82,374	42,640	43,230	43,820	44,410	45,000	45,590	46,180	46,770	47,360	47,950	48,540	49,130
$82,375 to $82,624	42,730	43,320	43,910	44,500	45,090	45,680	46,270	46,860	47,450	48,040	48,630	49,220
$82,625 to $82,874	42,820	43,410	44,000	44,590	45,180	45,770	46,360	46,950	47,540	48,130	48,720	49,310
$82,875 to $83,124	42,910	43,500	44,090	44,680	45,270	45,860	46,450	47,040	47,630	48,220	48,810	49,400
$83,125 to $83,374	42,990	43,600	44,190	44,780	45,370	45,960	46,550	47,140	47,730	38,420	48,910	49,500
$83,375 to $83,624	43,070	43,690	44,280	44,870	45,460	46,050	46,640	47,230	47,820	48,410	49,000	49,590
$83,625 to $83,874	43,150	43,780	44,370	44,960	45,550	46,140	46,730	47,320	47,910	48,500	49,090	49,680
$83,875 to $84,124	43,240	43,870	44,460	45,050	45,640	46,230	46,820	47,410	48,000	48,590	49,180	49,770
$84,125 to $84,374	43,320	43,950	44,560	45,150	45,740	46,330	46,920	47,510	48,100	48,690	49,280	49,870
$84,375 to $84,624	43,400	44,030	44,650	45,240	45,830	46,420	47,010	47,600	48,190	48,780	49,370	49,960
$84,625 to $84,874	43,480	44,110	44,740	45,330	45,920	46,510	47,100	47,690	48,280	48,870	49,460	50,050
$84,875 to $85,124	43,570	44,200	44,830	45,420	46,010	46,600	47,190	47,780	48,370	48,960	49,550	50,140
$85,125 to $85,374	43,650	44,280	44,910	45,520	46,110	46,700	47,290	47,880	48,470	49,060	49,650	50,240
$85,375 to $85,624	43,730	44,360	44,990	45,610	46,200	46,790	47,380	47,970	48,560	49,150	49,740	50,330
$85,625 to $85,874	43,810	44,440	45,070	45,700	46,290	46,880	47,470	48,060	48,650	49,240	49,830	50,420
$85,875 to $86,124	43,900	44,530	45,160	45,790	46,380	46,970	47,560	48,150	48,740	49,330	49,920	50,510
$86,125 to $86,374	43,980	44,610	45,240	45,870	46,480	47,070	47,660	48,250	48,840	49,430	50,020	50,200
$86,375 to $86,624	44,060	44,690	45,320	45,950	46,570	47,160	47,750	48,340	48,930	49,520	50,110	50,700
$86,625 to $86,874	44,140	44,770	45,400	46,030	46,660	47,250	47,840	48,430	49,020	49,610	50,610	50,790
$86,875 to $87,124	44,230	44,860	45,490	46,120	46,750	47,340	47,930	48,520	49,110	49,700	50,290	50,880
$87,125 to $87,374	44,310	44,940	45,570	46,200	46,830	47,440	48,030	48,620	49,210	49,800	50,390	50,980
$87,375 to $87,624	44,390	45,020	45,650	46,280	46,910	47,530	48,120	48,710	49,300	49,890	50,480	51,070
$87,625 to $87,874	44,470	45,100	45,730	46,360	46,990	47,620	48,210	48,800	49,390	49,980	50,570	51,160
$87,875 to $88,124	44,560	45,190	45,820	46,450	47,080	47,710	48,300	48,890	49,480	50,070	50,660	51,250
$88,125 to $88,374	44,640	45,270	45,900	46,530	47,160	47,790	48,400	48,990	49,580	50,170	50,760	51,350
$88,375 to $88,624	44,720	45,350	45,980	46,610	47,240	47,870	48,490	49,080	49,670	50,260	50,850	51,440
$88,625 to $88,874	44,800	45,430	46,060	46,690	47,320	47,950	48,580	49,170	49,760	50,350	50,940	51,530
$88,875 to $89,124	44,890	45,520	46,150	46,780	47,410	48,040	48,670	49,260	49,850	50,440	51,030	51,620
$89,125 to $89,374	44,970	45,600	46,230	46,860	47,490	48,120	48,750	49,360	49,950	50,540	51,130	51,720
$89,375 to $89,624	45,050	45,680	46,310	46,940	47,570	48,200	48,830	49,450	50,040	50,630	51,220	51,810
$89,625 to $89,874	45,130	45,760	46,390	47,020	47,650	48,280	48,910	49,540	50,130	50,720	51,310	51,900
$89,875 to $90,124	45,220	45,850	46,480	47,110	47,740	48,370	49,000	49,630	50,220	50,810	51,400	51,990
$90,125 to $90,374	45,300	45,920	46,560	47,190	47,820	48,450	49,080	49,710	50,320	50,910	51,500	52,090

Table D.—*Expected Family Contribution of a Single Independent Student*[1]—Continued

Adjusted gross income	Number of family members											
	1	2	3	4	5	6	7	8	9	10	11	12
$90,375 to $90,624	45,380	46,010	46,640	47,270	47,900	48,530	49,160	49,790	50,410	51,000	51,590	52,180
$90,625 to $90,874	45,460	46,090	46,720	47,350	47,980	48,610	49,240	49,870	50,500	51,090	51,680	52,270
$90,875 to $91,124	45,550	46,180	46,810	47,440	48,070	48,700	49,330	49,960	50,590	51,180	51,770	52,360
$91,125 to $91,374	45,630	46,260	46,890	47,520	48,150	48,780	49,410	50,040	50,670	51,280	51,870	52,460
$91,375 to $91,624	45,710	46,340	46,970	47,600	48,230	48,860	49,490	50,120	50,750	51,370	51,960	52,550
$91,625 to $91,874	45,790	46,420	47,050	47,680	48,310	48,940	49,570	50,200	50,830	51,460	52,050	52,640
$91,875 to $92,124	45,880	46,510	47,140	47,770	48,400	49,030	49,660	50,290	50,920	51,550	52,140	52,730
$92,125 to $92,374	45,960	46,590	47,220	47,850	48,480	49,110	49,740	50,370	51,000	51,630	52,240	52,830
$92,375 to $92,624	46,040	46,670	47,300	47,930	48,560	49,190	49,820	50,450	51,080	51,710	52,330	52,920
$92,625 to $92,874	46,120	46,750	47,380	48,010	48,640	49,270	49,900	50,530	51,160	51,790	52,420	53,010
$92,875 to $93,124	46,210	46,840	47,470	48,100	48,730	49,360	49,990	50,620	51,250	51,880	52,510	53,100
$93,125 to $93,374	46,290	46,920	47,550	48,180	48,810	49,440	50,070	50,700	51,330	51,960	52,590	53,200
$93,375 to $93,624	46,370	47,000	47,630	48,260	48,890	49,520	50,150	50,780	51,410	52,040	52,670	53,290
$93,625 to $93,874	46,450	47,080	47,710	48,340	48,970	49,600	50,230	50,860	51,490	52,120	52,750	53,380
$93,875 to $94,124	46,540	47,170	47,800	48,430	49,060	49,690	50,320	50,950	51,580	52,210	52,840	53,470
$94,125 to $94,374	46,620	47,250	47,880	48,510	49,140	49,770	50,400	51,030	51,660	52,290	52,920	53,550
$94,375 to $94,624	46,700	47,330	47,960	48,590	49,220	49,850	50,480	51,110	51,740	52,370	53,000	53,630
$94,625 to $94,874	46,780	47,410	48,040	48,670	49,300	49,930	50,560	51,190	51,820	52,450	53,080	53,710
$94,875 to $95,124	46,870	47,500	48,130	48,760	49,390	50,020	50,650	51,280	51,910	52,540	53,170	53,800
$95,125 to $95,374	46,950	47,580	48,210	48,840	49,470	50,100	50,730	51,360	51,990	52,620	53,250	53,880
$95,375 to $95,624	47,030	47,660	48,290	48,920	49,550	50,180	50,810	51,440	52,070	52,700	53,330	53,960
$95,625 to $95,874	47,110	47,740	48,370	49,000	49,630	50,260	50,880	51,520	52,150	52,780	53,410	54,040
$95,875 to $96,124	47,200	47,830	48,460	49,090	49,720	50,350	50,980	51,610	52,240	52,870	53,500	54,130
$96,125 to $96,374	47,280	47,910	48,540	49,170	49,800	50,430	51,060	51,690	52,320	52,950	53,580	54,210
$96,375 to $96,624	47,360	47,990	48,620	49,250	49,880	50,510	51,140	51,770	52,400	53,030	53,660	54,290
$96,625 to $96,874	47,440	48,070	48,700	49,330	49,960	50,590	51,220	51,850	52,480	53,110	53,740	54,370
$96,875 to $97,124	47,530	48,160	48,790	49,420	50,050	50,680	51,310	51,940	52,570	53,200	53,830	54,460
$97,125 to $97,374	47,610	48,240	48,870	49,500	50,130	50,760	51,390	52,020	52,650	53,280	53,910	54,540
$97,375 to $97,624	47,690	48,320	48,950	49,580	50,210	50,840	51,470	52,100	52,730	53,360	53,990	54,620
$97,625 to $94,874	47,770	48,400	49,030	49,660	50,290	50,920	51,550	52,180	52,810	53,440	54,070	54,700
$97,875 to $98,124	47,860	48,490	49,120	49,750	50,380	51,010	51,640	52,270	52,900	53,530	54,160	54,790
$98,125 to $98,374	47,940	48,570	49,200	49,830	50,460	51,090	51,720	52,350	52,980	53,610	54,240	54,870
$98,375 to $98,624	48,020	48,650	49,280	49,910	50,540	51,170	51,800	52,430	53,060	53,690	54,320	54,950
$98,625 to $98,874	48,100	48,730	49,360	49,990	50,620	51,250	51,880	52,510	53,140	53,770	54,400	55,030
$98,875 to $99,124	48,190	48,820	49,450	50,080	50,710	51,340	51,970	52,600	53,230	53,860	54,490	55,120
$99,125 to $99,374	48,270	48,900	49,530	50,160	50,790	51,420	52,050	52,680	53,310	53,940	54,570	55,200
$99,375 to $99,624	48,350	48,980	49,610	50,240	50,870	51,500	52,130	52,760	53,390	54,020	54,650	55,280
$99,625 to $99,874	48,430	49,060	49,690	50,320	50,950	51,580	52,210	52,840	53,470	54,100	54,730	55,360
$99,875 to $100,124	48,520	49,150	49,780	50,410	51,040	51,670	52,300	52,930	53,560	54,190	54,820	55,450

[1] Based on a 12 month budget. Multiply contribution by 0.75 if a 9 month budget is used.

As used in the table—

"Adjusted gross income" means the adjusted gross income of the student as reported on his or her 1980 Federal income tax return.

"Family members" include the student and his or her dependents.

Rationale for Tables

Table A

Table A is used to determine the expected family contribution for the Guaranteed Student Loan Program for dependent students from two-parent families. The table provides a simple conversion of adjusted gross income to the expected family contribution. Table A is based on the following irrebuttable assumptions:

- One of the two parents is employed,
- No assets are considered, and
- All of the family income was earned by the employed parent.

The conversion of adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income, the following:

—Federal income tax, based on standard deductions,

—F.I.C.A. (Social Security) for one wage earner,

—Average state and other taxes (8%), and

—A standard maintenance allowance, based on the average non-discretionary living expenses for families according to family size and derived from the Bureau of Labor Statistics low budget standard.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. (This series of rates is also used in the "Uniform Methodology.") The resulting value on the Table is the expected family contribution to be used in determining eligibility for interest subsidies.

Table B

Table B is used to determine the expected family contribution for the Guaranteed Student Loan Program for dependent students from one-parent families. The table provides a simple conversion of adjusted gross income to the expected family contribution. Table B is based on the following irrebuttable assumptions:

- That the parent is employed,
- No assets are considered, and
- All the family income was earned by the parent.

The conversion of adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income, the following:

—Federal income tax, based on standard deductions,

—F.I.C.A (Social Security) for one wage earner,

—Average state and other taxes (8%),

—An employment allowance of 50% of income to a maximum of $2,400, and

—A standard maintenance allowance, based on the average non-discretionary living expenses for families according to family size and derived from the Bureau of Labor Statistics low budget standard.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. (This series of rates is also used in the "Uniform Methodology.") The resulting value on the Table is the expected family contribution to be used in determining eligibility for interest subsidies.

Table C

Table C is used to determine the expected family contribution for the Guaranteed Student Loan Program for married independent students. The table provides a simple conversion of adjusted gross income to the expected

family contribution. Table C is based on the following irrebuttable assumptions:

- No assets are considered,
- A living allowance will be calculated as part of the student's and spouse's budget by the institutional aid officer following current practices, and
- Twelve month value is represented. (The nine month value would be ¾ of that indicated on the table.)

The conversion of adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income, the following:

—Federal income tax, based on standard deductions,

—F.I.C.A. (Social Security) for one wage earner, and

—Average state and local income taxes (4%).

The resulting value on the Table is the contribution to be used in determining eligibility for interest subsidies.

Table D

Table D is used to determine the expected family contribution for the Guaranteed Student Loan Program for single, independent students. The table performs the simple conversion of adjusted gross income to the expected family contribution. Table D is based on the following irrebuttable assumptions:

- No assets are considered,
- A living allowance will be calculated as part of the student's budget by the institutional aid officer following current practices, and
- Twelve month value is represented. (The nine month value would be ¾ of that indicated on the table.)

The conversion of adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income, the following:

—Federal income tax, based on standard deductions,

—F.I.C.A. (Social Security) for one wage earner, and

—Average state and local income taxes (4%).

The resulting value on the Table is the contribution to be used in determining eligibility for interest subsidies.

(20 U.S.C. 1078)

(Catalog of Federal Domestic Assistance No. 84.032 Guaranteed Student Loan Program)

Dated: September 2, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-26432 Filed 9-10-81; 8:45 am]

BILLING CODE 4000-01-M

federal register

Friday
September 11, 1981

Part III

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.

Arizona: AZ81-5142	Aug. 14, 1981.
Delaware: DE81-3028	May 8, 1981.
Florida: FL80-1088	Aug. 1, 1980.
Georgia:	
GA81-1191	Mar. 6, 1981.
GA81-1196	Mar. 20, 1981.
GA81-1193	Mar. 6, 1981.
Hawaii: HI81-5141	Aug. 14, 1981.
Kansas: KS81-4019	Apr. 10, 1981.
Kentucky:	
KY81-1275	Aug. 14, 1981.
KY81-1276	Aug. 14, 1981.
Maine: ME81-3057	Aug. 28, 1981.
Maryland:	
MD80-3047	Aug. 29, 1980.
MD81-3031	May 15, 1981.
Pennsylvania:	
PA80-3011	Feb. 22, 1980.
PA80-3026	Apr. 11, 1980.
PA80-3027	Apr. 18, 1980.
PA80-3028	Apr. 11, 1980.
PA80-3031	Aug. 29, 1980.
PA80-3032	May 30, 1980.
PA80-3037	May 2, 1980.
PA80-3038	May 23, 1980.
PA80-3056	Sept. 12, 1980.
PA80-3075	Dec. 5, 1980.
PA80-3059	Oct. 3, 1980.
PA81-3043	July 17, 1981.
PA81-3058	Aug. 28, 1981.
PA81-3044	Aug. 7, 1981.
PA81-3049	July 17, 1981.
Washington: WA81-5126	July 6, 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.

Kentucky:	
KY80-1093 (KY81-1291)	Aug. 22, 1980
KY80-1108 (KY81-1290)	Oct. 17, 1980
New York:	
NY79-3032 (NY81-3065)	Oct. 12, 1979
NY80-3046 (NY81-3061)	July 25, 1980.
NY80-3023 (NY81-3062)	Apr. 11, 1980
Oklahoma: OK80-4066 (OK81-4071)	July 25, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 4th day of September 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

DECISION NO. AZ81-5142 - Mod. #1
(46 FR 41299 - August 14, 1981)
Statewide, Arizona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters: Area 2:					
Zone A:					
Brush and Roller; Sandblaster (Nozzleman); Sheetrock Taper; Floor Coverer; Sandblaster (Pot Tender)	$13.14	.60	.60		.10
Spray; Paperhanger	13.39	.60	.60		.10
Creosote Applier	13.47	.60	.60		.10
Swing Stage:					
Brush; Sandblaster	13.54	.60	.60		.10
Spray	13.79	.60	.60		.10
Steeplejack	14.00	.60	.60		.10
Steel and bridge, brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric and air tool Operator; Steel Sandblaster	14.07	.60	.60		.10
Steel and bridge, Spray	14.27	.60	.60		.10
Zone B:					
Brush and Roller; Sandblaster (Nozzleman); Sheet Rock Taper; Floor Coverer; Sandblaster (Pot Tender);	14.14	.60	.60		.10
Spray; Paperhangers	14.39	.60	.60		.10
Creosote Applier	14.47	.60	.60		.10
Swing Stage:					
Brush; Sandblaster	14.54	.60	.60		.10
Spray	14.79	.60	.60		.10
Steeplejack	15.00	.60	.60		.10
Steel and bridge, Brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric and air tool Operator; Steel Sandblaster	15.07	.60	.60		.10
Steel and bridge, spray	15.27	.60	.60		.10

Modification Page 2

DECISION NO. AZ81-5142 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone C:					
Brush and Roller; Sandblaster (Nozzleman); Sheet Rock Taper; Floor Coverer; Sandblaster (pot Tender)	$15.64	.60	.60		.10
Spray; Paperhangers	15.89	.60	.60		.10
Creosote Applier	15.97	.60	.60		.10
Swing Stage:					
Brush; Sandblaster	16.04	.60	.60		.10
Spray	16.29	.60	.60		.10
Steeplejack	16.50	.60	.60		.10
Steel and bridge; Brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric, air tool operator; Steel Sandblaster	16.57	.60	.60		.10
Steel and bridge, Spray	16.77	.60	.60		.10
DECISION NO. DE81-3028					
MOD. NO. 5					
(46 FR 25909 - May 8, 1981)					
State of Delaware					
CHANGE:					
Carpenters:					
Building & Heavy New Castle & Kent Cos.	$14.55	1.29	1.40		.05
Carpenters (Highway Construction) New Castle & Kent Cos.	12.95	1.29	1.40		.05
Divers	12.97	3.13	1.40	a	.13

DECISION NO. FL80-1088 - MOD. #5
(45 FR 51400 - August 1, 1980)
Orange County, Florida

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Elevator Constructors					
Mechanic	$11.56	1.345	1.085	a & b	.035
Helper	8.09	1.345	1.085	a & b	.035
Roofers:					
Roofers	10.00	.40	.25		.05
Kettlemen	8.55	.40	.25		.05

DECISION #GA81-1191 - Mod. #6
(46 FR 15645 - March 6, 1981)
Clayton, DeKalb, & Fulton Counties, Georgia

CHANGE:

Painters:					
Brush, roller, & drywall finishers	$12.05	.75	1.10		.05
Paperhangers	12.30	.75	1.10		.05
Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (not floored solid)	12.55	.75	1.10		.05
Spray, steamcleaning, water-blasting, sandblasting, steeple-jack work, gold leafing, stencil designing, graining, & marbelizing	13.05	.75	1.10		.05

DECISION #GA81-1196 - Mod. #3
(46 FR 17987 - March 20, 1981)
DeKalb & Fulton Counties, Georgia

CHANGE:

Painters:					
Brush & Roller	$12.05	.75	1.10		.05
Spray	13.05	.75	1.10		.05

DECISION #GA81-1193 - Mod. #6
(46 FR 15648 - March 6, 1981)
Chatham County, Georgia

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Brush & Roller	$10.60	.60	.13		.02
Rubberhanger (installation only) & Paint burners	10.85	.60	.13		.02
Paperhanger, steel brush & steel roller	11.10	.60	.13		.02
Sandblasting, paint spraying, paint mitt or glove, & power tools (no roller larger than 9")	11.35	.60	.13		.02
Drywall finisher	11.50	.60	.13		.02

DECISION NO. HI81-5141 - Mod. #3 (46 FR 41312 - August 14, 1981)
STATEWIDE HAWAII

CHANGE:

LINE CONSTRUCTION WORKERS:					
Technicians	$14.05	1.22	15%+1.94	11.6%	.55

Decision #KS81-4019 - Mod. #1 - (46 FR 21565 - April 10, 1981) - Allen, Anderson, Atchison, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Doniphan, Elk, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Kingman, Labette, Linn, Lyon, Marion, Marshall, McPherson, Montgomery, Morris, Nemaha, Neosho, Osage, Ottawa, Pottawatomie, Reno, Republic, Riley, Saline, Sumner, Wabaunsee, Washington, Wilson, and Woodson; and Geary and Riley Counties--HIGHWAY CONSTRUCTION ONLY--Kansas.

Change: Area of Coverage to read:
Allen, Anderson, Atchison, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Doniphan, Elk, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Kingman, Labette, Linn, Lyon, Marion, Marshall, McPherson, Montgomery, Morris, Nemaha, Neosho, Osage, Ottawa, Pottawatomie, Reno, Republic, Riley, Saline, Sumner, Wabaunsee, Washington, Wilson, and Woodson Counties in Kansas.
Geary, Riley, and Saline Counties in Kansas--HIGHWAY CONSTRUCTION ONLY.

Modification Page 5

DECISION NO. KY81-1275 - MOD. #1 (46 FR 41323 - August 14, 1981) Fayette County, Kentucky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Line Construction:					
Linemen & Equipment Oper.	$15.18	.70	8%		½%
Cable Splicers	15.43	.70	8%		½%
Groundmen-Truck Drivers	12.14	.70	8%		½%
Groundmen	10.95	.70	8%		½%
Roofers	10.85	1.05			.02
DECISION NO. KY81-1276 - MOD. #1 (46 FR 41321 - August 14, 1981) Franklin County, Kentucky					
Change:					
Line Construction:					
Linemen & Equipment Oper.	$15.18	.70	8%		½%
Cable Splicers	15.43	.70	8%		½%
Groundmen-Truck Drivers	12.14	.70	8%		½%
Groundmen	10.85	.70	8%		½%
Plumbers & Pipefitters					
Western 3/4 of County, including the city of Frankfurt					
Plumbers	17.02	1.05	1.60		.15
Pipefitters	17.56	.95	1.69		.12
DECISION NO. ME81-3057 - MOD.# 1 (46FR 43620 AUGUST 28, 1981) STATEWIDE MAINE					
CHANGE:					
UNDER CHAIN SAW OPERATOR:					
HANCOCK & YORK COS.	$4.00				
PENOBSCOT COUNTY	4.25				

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DECISION NO. MD80-3047 - MOD. #2 (45 FR 57922 - August 29, 1980) Allegany & Garrett Counties, Maryland	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS	12.29	.80	1.00		
CARPENTERS	12.16	.80	1.15		.04
CEMENT MASONS	13.97	.75			
ELECTRICIANS - ALLEGANY COUNTY	13.70	.90	3%+.70		.75%
ELECTRICIANS - GARRETT COUNTY	14.10	.90	3%+.70		.75%
IRONWORKERS:					
Structural & Reinforcing	13.61	.80	1.55		
LABORERS:					
Unskilled, landscape workers, tool checkers, dumpmen, handymen, & truck spotters	10.25	.90	1.55		
Power tool operators, masons & plasterers tenders, mortar mixer by hand, scaffold builders, hod carriers, concrete puddlers, pipe layers, chainmen-rodmen, rammers & grade checkers	10.40	.90	1.55		
Mortar mixer by machine	10.48	.90	1.55		
Barco tampers	10.56	.90	1.55		
Blaster/dynamite & wagon drill operator (air track)	10.61	.90	1.55		
Tunnel workers:					
Caisson, driller & mucker	11.23	.90	1.55		
Laborer - unskilled	10.80	.90	1.55		

DECISION NO. MD80-3047 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	12.50	.80	1.15		.04
TRUCK DRIVERS:					
Group 1	10.34	1.10	1.35		
Group 2	10.52	1.10	1.35		
Group 3	10.76	1.10	1.35		
Group 4	11.00	1.10	1.35		
Group 5	11.28	1.10	1.35		
DECISION NO. MD81-3031 - MOD. #1 (46 FR 27051 - May 15, 1981) Allegany and Garrett Counties, Maryland					
CHANGE:					
ELECTRICIANS:					
Allegany County	13.70	.90	3%+.70		.75%
Garrett County	14.10	.90	3%+.70		.75%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	12.925	1.345	.95	a+b	.035
Elevator Constructors' Helpers	9.048	1.345	.95	a+b	.035
Elevator Constructors' Probationary Helpers	6.463				
GLAZIERS	13.44	1.12	1.55	1.29	.02
PAINTERS:					
Brush, rollers, wall covering hangers, & installation of seamless type floors	9.70		.50		
Spray, sandblasting & use of flame burning & power tools	10.70		.50		
Toxic materials-brush and roller	10.20		.50		
Toxic materials-spray	11.20		.50		
SPRINKLER FITTERS	14.88	.95	1.40		.08

DECISION NO. PA80-3011 MOD. NO. 11 (45 FR 12118 - February 22, 1980) Greene, Somerset & Potter Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers					
Zone I	$15.06	1.00	2.27		
Boilermakers					
Zone I	16.67	1.275	1.00		.02
Bricklayers & Stonemasons					
Zone III	14.20				
Carpenters					
Zone I	12.25	6½%	8%	10%	
Electricians					
Zone II	11.50	.65	3%+1.00	1.00	.02
Glaziers					
Zone I	13.44	1.12	1.55	1.29	.02
Painters					
Zone 3					
Commercial					
Brush & Roller	14.25	.75	1.50		
Spray	15.25	.75	1.50		
Industrial					
Brush & Roller	14.75	.75	1.50		
Spray	15.75	.75	1.50		
Sheet metal workers					
Zone I	14.81	1.19	1.88		.25
Zone II	13.21	.80	.86		.04
Soft Floor Layers					
Zone I	12.94	.81	1.08	1.08	.06
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

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DECISION NO. PA80-3026 Mod. No. 10 (45 FR 25017 - April 11, 1980) Lehigh County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Bricklayers & Stonemasons	12.55	1.10	1.50		.01
Elevator Constructors	13.63	1.345	1.085	a+b	.035
Elevator Constructors Helpers	9.54	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	6.815				
Laborers:					
Barko Tamper Operator	10.36	.62	.59		
Line Construction:					
Lineman & Cable Splicers	14.28	.60	3%		3/8%
Groundman	8.57	.60	3%		3/8%
Winch truck operators	10.00	.60	3%		3/8%
Painters:					
Brush	13.00	1.28	.80		.10
Structural Steel	14.30	1.28	.80		.10
Spray	14.00	1.28	.80		.10
Add:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

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DECISION NO. PA80-3027 MOD. NO. 11 (45 FR 26654 - April 18, 1980) Schuylkill County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Electricians:					
North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	14.49	.78	3%+.64		.04
Ironworkers	14.30	1.49	1.46		.05
Millwrights	14.42	.70	.90		.05
Painters:					
Remainder of County					
Brush	11.05	1.20	1.05		
Steel	12.05	1.20	1.05		
Spray	12.05	1.20	1.05		
Plasterers	11.60	.70	1.45		
Plumbers	13.59	.95	1.55		.10
Steamfitters	13.59	.70	1.80		.10
Sheet Metal Workers	13.21	.80	.86		.04
Add:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

DECISION NO. PA80-3028 MOD. NO. 10 (45 FR 25019 - April 11, 1980) Berks County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Bricklayers & Stonemasons	12.15	1.00	1.25		
Electricians:					
Remainder of County	14.49	.78	3%+.64		.04
Elevator Constructors	13.63	1.345	1.085	b+c	.035
Elevator Constructors Helpers	9.54	1.345	1.085	b+c	.035
Elevator Constructors Helpers (Prob.)	6.815				
Ironworkers	14.30	1.49	1.46		.05
Line Construction:					
Lineman	14.28	.60	3%		3/8%
Groundman	8.57	.60	3%		3/8%
Winch truck operator	10.00	.60	3%		3/8%
Roofers:					
Remainder of County					
Composition, damp & waterproofer	15.67	1.40	.95	d	
Roofer Assistant	7.75	1.40	.95	d	
Add:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

DECISION NO. PA80-3031 MOD. NO. 9 (45 FR 59747 - August 29, 1980) Bradford, Tioga, & Union Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Glaziers					
Zone I	11.85	.70	1.20		
Sheet metal workers	13.21	.80	.86		.04
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					
DECISION NO. PA80-3032 MOD. NO. 10 (45 FR 36767 - May 30, 1980) Columbia, Montour, Snyder Counties, Pennsylvania					
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Glaziers					
Zone III	11.00	.65	.85		
Ironworkers					
Zone II					
Structural & Ornamental	14.75	b			.10
Reinforcing	14.65	b			.10
Laborers:					
Zone I					
Class I	8.59	.80	1.10		
Class II	8.99	.80	1.10		
Class III	8.69	.80	1.10		
Class IV	8.84	.80	1.10		
Sheet Metal Workers	13.21	.80	.86		.04
Millwrights	14.42	.70	.90		.05
Footnote:					
b. Employer contributes $2.95 to a combined health and welfare and pension fund.					
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3037					
MOD. NO. 10					
(45 FR 29522 - May 2, 1980)					
Sullivan County, Pa.					
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Glaziers	11.85	.70	1.20		
Ironworkers:					
Structural	14.75	a			.10
Reinforcing	14.65	a			.10
Millwrights	14.42	.70	.90		.05
Sheet Metal Workers	13.21	.80	.86		.04
Footnote:					
a. Employer contributes $2.95 per hour to a combined health & welfare & pension fund					
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					
DECISION NO. PA80-3038					
MOD. NO. 10					
(45 FR 35148 - May 23, 1980)					
Lancaster County, Pennsylvania					
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Electricians:					
W. Calico, E. Calico, Brecknock, E. Carl and Caernarvon Twps.	14.49	.78	3%+.64		.04
Remainder of County	11.75	.60	3%		.03
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3056					
MOD. NO. 8					
(45 FR 60748 - September 12, 1980)					
Lackawanna, Susquehanna, Wayne and Wyoming Counties, Pennsylvania					
CHANGE:					
Elevators Constructors	$13.10	1.345	1.085	a+b	.035
Elevator Constructors Helpers	9.17	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	6.55				
Glaziers	11.85	.70	1.20		
Ironworkers:					
Lackawanna, Wayne and Wyoming Counties:					
Structural & Ornamental	14.75	e			.10
Reinforcing	14.65	e			.10
Roofers:					
Composition and Kettleman	12.07	1.13	1.00		
Footnote:					
e. Employer contributes $2.95 per hour to a combined Health & Welfare and Pension Fund.					
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3075					
MOD. NO. 6					
(45 FR 80638 - December 5, 1980)					
Northampton County, Pennsylvania					
CHANGE:					
Boilermakers	$16.67	1.275	1.00		.02
Line Construction:					
Lineman & Cable Splicer	14.69	.60	3%		3/8%
Groundman	8.81	.60	3%		3/8%
Winch truck operator	10.28	.60	3%		3/8%
Painters(Bethlehem)					
Brush	13.00	1.28	.80		.10
Structural Steel	14.50	1.28	.80		.10
Spray	14.00	1.28	.80		.10
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					
DECISION NO. PA80-3059					
MOD. NO. 6					
(45 FR 65895 - October 3, 1980)					
Erie County, Pennsylvania					
CHANGE:					
Bricklayers & Stonemasons	$14.40	.75	.60	1.00	.02
Cement masons	14.40	.75	.60	1.00	.02
Plasterers	14.40	.75	.60	1.00	.02
Elevator Constructors	14.88	1.345	1.085	a+b	.035
Elevator Constructors Helpers	70%JR	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	50%JR				
Ironworkers:					
Structural, Ornamental and Reinforcing	14.50	1.86	1.51		.25
Sheet Metal Workers	14.81	1.19	1.88		.25
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA81-3043					
MOD. NO. 1					
(46 FR 37212 July 17, 1981)					
Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington, Westmoreland Counties, Pennsylvania					
CHANGE:					
Asbestos Workers	$15.06	1.00	2.27		
Elevator Constructors	14.95	1.345	1.085	a+b	.035
Elevator Constructors Helpers	10.465	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	7.475				
Glaziers	13.44	1.12	1.55	1.29	.02
Sheet metal workers	14.81	1.19	1.88		.25
Painters					
Zone 5					
Commercial	11.50	.95	1.10	1.50	2%
Industrial	13.15	.95	1.10	1.75	2%
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					
DECISION NO. PA81-3058					
MOD. NO. 1					
(46 FR 43596 - August 28, 1981)					
Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, & York Counties, Pennsylvania					
CHANGE:					
HEAVY & HIGHWAY:					
TRUCK DRIVERS:					
CLASS I					
Helper, Stake Body Truck (single axle), dumpster	$11.07				

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DECISION NO. PA81-3044 MOD. NO. 1 (46 FR 40477 - August 7, 1981) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford and Venango Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers					
Zone I	$15.06	1.00	2.27		
Bricklayers & Stonemasons					
Zone 4	14.20	.90	1.20		
Cement Masons					
Zone 3	14.40	.75	.60	1.00	.02
Glaziers					
Zone I	13.44	1.12	1.55	1.29	.02
Plumbers & Steamfitters					
Zone 3					
Contracts under $10,000	10.85	.95	1.30		.15
Contracts over $10,000	15.70	.95	1.30		.15
ADD:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

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DECISION NO. PA81-3049 MOD. NO. 1 (46 FR 27221 - July 17, 1981) Elk, Forest, McKean & Warren Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers					
Elk County	$15.06	1.00	2.27		
Bricklayers, Cement Masons, & Stonemasons:					
Elk, McKean & Warren Cos.	14.20	.90	1.20		
Glaziers:					
Elk County	13 .44	1.12	1.55	1.29	.02
Electricians:					
Elk, Forest & Warren Cos.	14.55	1.20	3%+1.75	1.00	1/2 of 1%
Ironworkers:					
Forest & Warren Counties	14.50	1.86	1.51		.25
Marble Setters: Elk, McKean and Warren Cos.	14.20	.90	1.20		
Plasterers:					
Elk, McKean & Warren Cos.	14.20	.90	1.20		
Sheet metal workers	14.81	1.19	1.88		.25
Plumbers & Steamfitters:					
Forest County					
Contracts under $10,000	10.85	.95	1.30		.15
Contract over $10,000	15.70	.95	1.30		.15
Add:					
To Description of Work: Excluding Sewage and Water Treatment Plant Projects.					

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DECISION NO. WA81-5126 - Mod. #5
(46 FR 35029 - July 6, 1981)
Statewide Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS:					
Area 4:					
Carpenters	$15.83	.96	1.20		.10
Piledriver; Sawfiler, Stationary Power Tool Operator	15.98	.96	1.20		.10
Boom Men; Carpenters working on burned, charred, creosoted, or similarly treated material	16.08	.96	1.20		.10
Piledriver, Creosoted material	16.19	.96	1.20		.10
Millwrights and Machine Erectors	16.33	.96	1.20		.10
CEMENT MASONS:					
Area 5:					
Group 1	14.68	1.00	1.75		.15
Group 2	15.18	1.00	1.75		.15
Group 3	15.68	1.00	1.75		.15
PAINTERS:					
Area 5:					
Journeyman Painters	14.98	.84	1.20		.02
Taper Finishers	15.23	.84	1.20		.02
Spray Painters, Steel Painters, Steam Cleaning, Acid Etching	15.48	.84	1.20		.02
Swing Stage Work or high work over 30 ft.	15.68	.84	1.20		.02
Bitumastic, Sand Blasting, Bridges, Towers, Stacks, Steeples, Tank on Legs	15.78	.84	1.20		.02
TV, Radio, and Electrical Transmission Towers	16.48	.84	1.20		.02
SOFT FLOOR LAYERS:					
Area 2	13.32	.68	1.10	1.21	
Area 3	14.00	.84	.90	.60	
LABORERS (area 5)					
DOE Hanford site in Benton and Franklin Counties:					
Group 1	13.20	1.12	1.30		.10
Group 2	13.45	1.12	1.30		.10
Group 3	13.70	1.12	1.30		.10
Group 4	13.95	1.12	1.30		.10
Group 5	14.20	1.12	1.30		.10

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DECISION NO. WA81-5126 (Cont'd) Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS (Area 4)					
DOE Hanford Site in Benton and Franklin Counties:					
Group 1	13.48	1.30	2.00		.10
Group 2	13.78	1.30	2.00		.10
Group 3	14.33	1.30	2.00		.10
Group 4	14.48	1.30	2.00		.10
Group 5	14.63	1.30	2.00		.10
Group 6	14.88	1.30	2.00		.10
Group 7	15.13	1.30	2.00		.10
Group 8	16.13	1.30	2.00		.10
Group 9	17.88	1.30	2.00		.10
TRUCK DRIVERS (Area 4)					
DOE Hanford Site in Benton and Franklin Counties:					
Group 1	14.52	1.34	1.47		.09
Group 2	14.56	1.34	1.47		.09
Group 3	14.62	1.34	1.47		.09
Group 4	14.71	1.34	1.47		.09
Group 5	14.92	1.34	1.47		.09
Group 6	14.96	1.34	1.47		.09
Group 7	15.02	1.34	1.47		.09
Group 8	15.06	1.34	1.47		.09
Group 9	15.17	1.34	1.47		.09
Group 10	15.21	1.34	1.47		.09
Group 11	15.52	1.34	1.47		.09
Group 12	15.66	1.34	1.47		.09
Group 13	15.82	1.34	1.47		.09
Group 14	15.96	1.34	1.47		.09

SUPERSEDEAS DECISION

STATE: Kentucky COUNTIES: Boone, Campbell, Kenton & Pendleton

DECISION NUMBER: KY81-1291 DATE: Date of Publication

Supersedes Decision Number: KY80-1093, dated August 22, 1980 in 45 FR 56287

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes & apartments up to & including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$16.36	.75	1.25		.02
Boilermakers	12.50	1.275	1.20	2.00	.04
Bricklayers & Stonemasons	16.445	.80	.45		.02
Carpenters & Piledrivermen	15.80	.90	1.10		.075
Cement Masons	14.23	.90	.95		.30
Electricians	15.70	.70	3%+.80		.5%
Elevator Constructors:					
Mechanics	14.32	1.195	.82	a & b	.035
Helpers	10.02	1.195	.82	a & b	.035
Glaziers	14.10		.60		.01
Ironworkers:					
Reinforcing	15.83	1.00	1.60		.02
Structural & Ornamental	15.28	1.00	1.60		.03
Lathers	15.42		1.10		.075
Line Construction					
Linemen & Machine Operators	15.70	.70	3%+.80		.5%
Groundmen	11.775	.70	3%+.80		.5%
Marble Setters	16.275	.80	.45		
Marble Finishers	14.75				
Millwrights	16.44	.60	1.10		.10
Painters:					
Brush, Roller, Taping, Paperhanging, Wall Covering & Washing	14.70		.35		
Steamcleaning (40' or over)	14.85		.35		
Taping (on stilts)	15.10		.35		
Spray	15.20		.35		
Sand & Water Blasting	15.60		.35		
Drywall Machine Operators	15.70		.35		
Pipefitters	14.60	1.075	1.90		.08
Plasterers	16.395		1.00		.02
Plumbers & Gas Fitters:					
Pendleton County	14.42	1.05	1.20		.07
Remaining Counties	16.57	1.25	1.50		.07
Roofers	16.67		1.50		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers:					
Pendleton County	$15.60	1.651	1.66		.16
Remaining Counties	16.94	1.18	.86		.08
Sprinkler Fitters	15.31	.95	1.40		.08
Tile & Terrazzo Workers	16.235	.80	.45		
Tile & Terrazzo Finishers	14.75				
Welders - Rate for Craft					

FOOTNOTES:

a. Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, or 6% of the basic hourly rate for 6 months to five years of service as Vacation Pay Credit

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)).

LABORERS - Boone, Campbell, & Kenton Counties					
Group A	13.70	.95	.90		.05
Group B	13.80	.95	.90		.05
Group C	13.85	.95	.90		.05
Group D	13.90	.95	.90		.05
Group E	14.05	.95	.90		.05
Group F	14.20	.95	.90		.05
Group G	14.45	.95	.90		.05

Group A - Common laborers, cement mason tenders, hand operated mechanical sweeper, signal man

Group B - Bottom man, pipe layer

Group C - Burning torch operator, jack hammer, mechanical & air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man

Group D - Plaster tender, mason tender, stone mason tender, bottom jackhammer man

Group E - Plaster mixer pump operator

Group F - Tunnel laborer

Group G - Gunnite Nozzle Operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS - Pendleton County					
Group I	$10.40	.45	.80		
Group II	10.80	.45	.80		
Group III	11.00	.45	.80		
Group IV	11.10	.45	.80		
Group V	11.60	.45	.80		
Group VI	11.90	.45	.80		

Group I - General laborers, water boys, concrete pouring, concrete forms stripping & wrecking, hand digging & backfilling of ditches, clearing of right of right-of-ways & building sites, wood sheeting & shoring, signalman for concrete bucket, & general cleaning
Group II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant & scale man, chain saw, concrete saw, electric hand grinder, all electric bush & chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spikers, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man & deck hand, signal man, sweeper & cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman
Group III - Gunnite nozzleman & gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman
Group IV - Powderman & blaster
Group V - Caisson holes (6 ft. & over) pressure & free air including tools
Group VI - Tunnel man & tunnel sand miner, cofferdam (pressure & free air), sand hog or mucker (pressure or free air)

KY81-1291 cont.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group A	$15.61	1.26	1.50		.11
Group B	15.45	1.26	1.50		.11
Group C	15.09	1.26	1.50		.11
Group D	14.31	1.26	1.50		.11
Group E	13.98	1.26	1.50		.11
Group F	11.78	1.26	1.50		.11

Group A - A-frame, air compressor on steel erection, all rotary drills used on caisson work for foundations & substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer & tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator (hoisting building materials), hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), trench machines (over 24" wide), tug boat, Helicopter winch operator (hoisting building materials)
Group B - Asphalt paver, bulldozer, CMI type equipment, end loaders, Kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats & lead greaseman
Group C - Air compressor, pressurizing shafts or tunnels, all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" & under)
Group D - Compressors on building construction, conveyors building material, gunite machines, mixers (cap., more than one bag), mixers (one bag cap., side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator & generators
Group E - Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman asphalt, farm type tractors, pulling attachments, finishing machines, form trenchers, high pressure pumps (over ½" discharge), hydro seeders, self propelled sub-grader, self propelled powered spreader, tire repairman, tractors (pulling sheep foot roller or grader), vibratory compactors (with integral power), deckhand
Group F - Oiler, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge), inboard, outboard motor launch

SUPERSEDEAS DECISION

KY81-1290 (Cont'd)

STATE: Kentucky

COUNTIES: Boone, Campbell, Kenton, & Pendleton

DECISION NUMBER: KY81-1290

DATE: Date of Publication

Supersedes Decision Number KY80-1108, dated October 17, 1980 in 45 FR 69148

DESCRIPTION OF WORK: Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$15.80	.90	1.10		.075
Cement Masons	14.28	.80	.95		.02
Electricians	16.70	.85	3% +1.00		½ of 1%
Ironworkers:					
Reinforcing	15.83	1.00	1.85		.02
Structural	15.03	1.00	1.85		.03
Painters:					
*Brush	15.80	.75			
*Spray	16.30	.75			
*Sandblast	17.05	.75			
*Painters on Bridges, when highest point of clearance is 60' or more, shall receive $1.00 per hour in addition to the base rate of work classifications					
Piledrivermen	15.80	.90	1.10		.075
Pipefitters	16.23	1.095	2.20		.08
Plumbers	15.97	1.70	1.65		.07
Welders - Rate for craft					
LABORERS					
Group 1	11.77	.75	1.30		.05
Group 2	11.895	.75	1.30		.05
Group 3	11.97	.75	1.30		.05
Group 4	12.12	.75	1.30		.05
Group 5	12.42	.75	1.30		.05

LABORERS CLASSIFICATIONS

Group 1 - Laborers (construction), plant laborers or yardmen, right-of-way laborers, landscape laborers, utility men or handy men, joint setter, flagmen, carpenter tender, waterproofing laborers, slurry seal, seal coasting surface treatment or road mix laborers, riprap laborers or grouter, asphalt laborers, dump man (batch trucks), guardrail & fence installers, mesh handler & placers, concrete curing applicator, scaffold erector

Group 2 - Asphalt Raker, concrete puddler, kettleman (pipeline), all machine driven tools (gas electric, air), mason tenders, mortar mixers, sheeting & shoring man, surface grinder man, power buggy & wheelbarrow (power)

Group 3 - Form setter, bottom man, welder tender (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer & waterline, cleaning, repairing & reconditioning), tunnel laborer (without air), & caisson, cofferdam (below 25 ft. deep), air track & wagon drill

Group 4 - Blaster & powder man, muckers, wrencher (mechanical joint & utility pipeline), yarner, top lander

Group 5 - Curb setter, & cutter, miner (without air), concrete crew in tunnels, utility pipeline tapper, gunnite nozzleman, waterline caulker

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Master Mechanic	$15.29	1.25	1.50		.15
Class A	15.04	1.25	1.50		.15
Class B	14.92	1.25	1.50		.15
Class C	13.88	1.25	1.50		.15
Class D	13.45	1.25	1.50		.15
Class E	10.09	1.25	1.50		.15

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Class A - Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer & tower, concrete plants (over 4 yd. capacity), concrete pumps, cranes (all types, including A-frame, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or Euclid loader, floating equipment (all types), helicopter crew (operator - hoist or winch), hoes (all types), hoisting engines on shaft or tunnel work, hoisting engines, industrial type tractors, jet engine dryer (D8 or D9), diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machine, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, tower derricks, tree shredder, trench machines (over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator

Class B - Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozer, endloader, Kolman loader (production type-dirt), lead grease man, maintenance operators Class B, power grader, power scoops & scrapers, push cat, trench machines (24" wide & under), Boring machine operator (more than 48")

Class C - Air compressor on tunnel work (low pressure), asphalt plant engineer, locomotive (Narrow gauge), mixers, concrete (more than one bag capacity), mixers (one bag capacity), side loader, power boilers over 15 lb. pressure, pump operator installing & operating well points, pumps (4" & over discharge), rollers (asphalt), utility operator (small equipment), welding machines & generators

Class D - Back fillers, bar joint & mesh installing machine, batch plant, bull-floats, Burlap & curing machine, compressors (portable, sewer, heavy & highway), concrete plant (capacity 4 yd. & under), concrete saw (multiple), conveyors (highways), crushers, deckhand, drill (highway - with integral power), farm type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post drivers, post hole diggers (power auger), power brush burner, power form handling equipment, road widening trenchers, rollers (brick, grade macadam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, tractor (pulling sheepfoot roller or grader), vibratory compactors (with integral power), Boring machine operators (48" or less), hydro hammer, pavement breakers

Class E - Drum fireman (asphalt plant), inboard - outboard motor boat - launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalman, tire repairmen

KY81-1290 cont.

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Tender	$10.43	*a	*b		
Mobile Batch Truck Tender, Greaser, Tire Changer, & Mechanic Tender	10.54	*a	*b		
Driver - Single Axle Dump & Flat Bed Trucks, Semi-Trailer or Pole Trailer (when used to pull building materials & equipment), Dump Truck Tandem Axle, Distributor, & Truck Mechanic	10.72	*a	*b		
Driver on Mixer Trucks (all types)	10.75	*a	*b		
Driver - Euclid & other Heavy Earth Moving Equip - ment, Low Boy, Winch Truck & A-Frame Truck (when used in transporting materials) & Ross Carrier, Fork Lift Truck (when used to trans-port building materials)	10.82	*a	*b		

a. Health & Welfare Benefits are $28.50 per week
b. Pension Benefits are $27.50 per week

*Fringe benefits apply 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: NEW YORK COUNTY: CHEMUNG
DECISION NO. NY81-3065 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY79-3032 dated October 12, 1979 in 44 FR 59061
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.83	.90	.93		.06
BOILERMAKERS	14.80	1.275	1.975		.03
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS & TILE SETTERS	12.45	.85	.50		
CARPENTERS					
All the area west of a straight line from the intersection of Southport Twp. line and Clark Hollow Road to Route 17E to Winter Street, Big Flats, then in a straight line north to the Schuyler County line					
Carpenters	10.51	.60	1.35		.02
Millwrights & Piledrivers	10.76	.60	1.35		.02
Heavy & Highway	11.51	.60	1.46	a	.025
Remainder of County					
Carpenters	12.32	.55	.70		.04
Millwrights & Piledrivers	12.67	.55	.70		.04
CEMENT MASONS (Heavy & Highway)	12.25	.60	.50		
ELECTRICIANS	14.90	1.00	3%+1.00	b	.05
ELEVATOR CONSTRUCTORS	12.22	1.345	1.085	c+d	.035
ELEVATOR CONSTRUCTORS' HELPER	8.55	1.345	1.085	c+d	.035
ELEVATOR CONSTRUCTORS' HELPER PROBATIONARY	6.11				
GLAZIERS	9.97	.45	.65		.03
IRONWORKERS					
Structural, Reinforcing, Ornamental, Machinery Mover, Rigger, Rodmen, Fence Erector, and Stone					
Derrickmen	12.90	.85	1.30		.05
Sheeter	13.15	.85	1.30		.05
Sheeter Bucker-up	12.96	.85	1.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, Building	9.97	.60	.45		
PAINTERS					
Brush, Taper	10.05	.55	.60		
Paper & Vinyl Hangers	10.40	.55	.60		
Power Grinder with Respirator, Swing Scaffold, Swing Chair	10.55	.55	.60		
Boatswain Chair & Toothpick Staging over 25', Structural Scaffold over 39'	10.30	.55	.60		
Spray, Bridges	10.90	.55	.60		
Epoxy - Brush or Roll	10.60	.55	.60		
Spray Eqpxy, Bridges - Main Road and Highway	11.30	.55	.60		
Steamcleaning, Sandblasting Acid or Hi Pressure water					
Steeple Jack over 100' & Structural Steel	11.05	.55	.60		
PLUMBERS & STEAMFITTERS	14.15	.60	1.05		.15
ROOFERS	11.00	.99	1.19		
SHEET METAL WORKERS	13.66	3%+ .60	.80		.12
SPRINKLER FITTERS	15.55	.95	1.40		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:
a. Holidays: Independence Day & Labor Day
b. Employee shall work 4 hours and receive 8 hours pay on Christmas Eve
c. Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Tahnksgiving Day, & Christmas Day
d. 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

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)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS A	10.44	.75	.50	a	
CLASS B	10.64	.75	.50	a	
CLASS C	10.84	.75	.50	a	
CLASS D	11.04	.75	.50	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	12.00	1.40	3%+1.00	a	
Cable Splicer	16.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.80	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	10.20	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.00	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.80	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.42	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.04	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.73	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.35	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technicians	14.55	1.40	3%+1.00	a	
Cable Splicer	16.005	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	13.095	1.40	3%+1.00	a	

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.64	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.91	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	14.55	1.40	3%+1.00	a	
Certified Lineman Welder	15.27	1.40	3%+1.00	a	
Cable Splicer	16.005	1.40	3%+1.00	a	
Groundman Equipment Operator	14.55	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Groundman Truck Drivers	11.64	1.40	3%+1.00	a	
Groundman	10.91	1.40	3%+1.00	a	

FOOTNOTE:
a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I:					
I-A	13.61	1.30	1.45	a	.15
I-B	13.86	1.30	1.45	a	.15
I-C	14.11	1.30	1.45	a	.15
I-D	14.36	1.30	1.45	a	.15
I-E	14.86	1.30	1.45	a	.15
I-F	15.36	1.30	1.45	a	.15
I-G	15.86	1.30	1.45	a	.15
I-H	16.36	1.30	1.45	a	.15
GROUP II	13.61	1.30	1.45	a	.15
GROUP III	13.25	1.30	1.45	a	.15
GROUP IV	11.99	1.30	1.45	a	.15
GROUP V	9.86	1.30	1.45	a	.15
GROUP VI	14.27	1.30	1.45	a	.15

FOOTNOTES:
a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP I - Cranes (cable and hydraulic climbing and tower)
I-A 121 ft. and under
I-B 121 ft. and 151 ft.
I-C 151 ft. and 201 ft.
I-D 201 ft. and 251 ft.
I-E 251 ft. and 301 ft.
I-F 301 ft. and 351 ft.
I-G 351 ft. and 401 ft.
I-H 401 ft. and 451 ft.

GROUP II - Air tugger, derrick, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, forklift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, ross carrier (and similar types), three drum hoist (when all three drums are in use)

GROUP III - A frame, backfilling machine, hoist (1 or 2 drums), barber green and similar type machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar type machine, bituminous spreading machines, post hole digger, bulldozer, carry all type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 cfm, concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane hoe shovel 3/8 yds. capacity or less (factory rating), tournapull and similar types, dinky locomotives (all types), tower mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift, with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler.

GROUP IV - Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical conveyor (over 12 ft. in length), fireman, belt crete generator, mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float.

GROUP V - Truck Crane

GROUP VI - Master Mechanic

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION					
GROUP I	13.09	1.25	1.45	a	.15
GROUP II	12.65	1.25	1.45	a	.15
GROUP III	11.41	1.25	1.45	a	.15
GROUP IV	10.31	1.25	1.45	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Paid Holidays: A through F, Providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION:

GROUP I - Automated concrete spreader (CMI), automatic fine grade, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), Cableway, caisson auger, central mix concrete plant (automated), Cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factory rated 15 ft.and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt type loader, truck crane, tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D:

GROUP II (CONT'D) - power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above sub-grade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other welding machines (4 of any type of combination), concrete pave-ment spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with prod-uction), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or comb-ination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lightling plants, mulching machine,oiler parapet-(concrete or pavement grinder), power broom (towed), power heat-erman, revinius widener, shell winder, steam cleaner, tractor.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS 1	9.78	1.11	.85	a	
CLASS 2	9.83	1.11	.85	a	
CLASS 3	9.88	1.11	.85	a	
CLASS 4	10.03	1.11	.85	a	
CLASS 5	10.18	1.11	.85	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpster, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2 - Tandems, batch trucks, mechanics and dispatcher.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

"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: NEW YORK
DECISION NO. NY81-3061
COUNTY: CLINTON
DATE: DATE OF PUBLICATION
Supersedes Decision No. NY80-3046 dated July 25, 1980 in 45 FR 49822
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	14.60	1.07	.66		.02
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, TILE AND TERRAZZO WORKERS	13.12	.70	.70	a	.02
CEMENT MASONS, Heavy & Highway	11.95	.70	.70		
CARPENTERS & SOFT FLOOR LAYERS	12.72	.60	1.15	a	.005
PILEDRIVERMAN	12.87	.60	1.15	a	.005
MILLWRIGHTS	12.97	.60	1.15	a	.005
CARPENTERS, Heavy & Highway	11.82	.60	1.15		.025
ELECTRICIANS					
Zone I - City of Plattsburg and 5 mile Radius					
Electricians	12.90	.90	3%+ .65	b	1%
Cable Splicers	13.20	.90	3%+ .65	b	1%
Zone II - From Zone I to a 20 mile radius of Plattsburg					
Electricians	13.10	.90	3%+ .65	b	1%
Cable Splicers	13.40	.90	3%+ .65	b	1%
Zone III - Beyond Zone II					
Electricians	13.30	.90	3%+ .65	b	1%
Cable Splicers	13.60	.90	3%+ .65	b	1%
ELEVATOR CONSTRUCTORS	13.25	1.345	1.085	c+d	.035
ELEVATOR CONSTRUCTORS' HELPER	9.275	1.345	1.085	c+d	.035
ELEVATOR CONSTRUCTORS' HELPER PROBATIONARY	6.625				
GLAZIERS	10.13		.20	e	.01
IRONWORKERS					
Structural, Ornamental, Reinforcing, Rodmen, Machinery Mover, Riggers, Fence Erectors, Stone Derrickmen	13.40	.75	1.60		.04
Sheeter	13.65	.75	1.60		.04
Sheeter, Bucker-up	13.525	.75	1.60		.04
LABORERS, Building					
Common Laborers and self-propelled Equipment Operators	9.80	.70	1.00	f	
Concrete or plaster pump Operator, All men on building demolition and wrecking	9.95	.70	1.00	f	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, Building (Cont'd)					
Sandblasters and construction clean up, Driller, Wagon Jack or Wagon Drill Operator, Metal Form and Curb Setter, Asphalt Raker, Tail or Screw man on paving Machine	10.10	.70	1.00	f	
Acetylene Torch Operator on Demolition work and Cutting of pipes, Blasters	10.25	.70	1.00	f	
PAINTERS					
Brush	10.73		.40	e	.01
Spray Cup, Paperhanging, Spray Structural Steel, Swinging Scaffold, Boatswain Chair, Hanging Scaffold, Sandblasting and Taping	11.23		.40	e	.01
Bridges	11.48		.40	e	.01
Seamless Floor Material	9.86		.40	e	.01
PLUMBERS & STEAMFITTERS	10.98	.75	1.00		.05
ROOFERS	11.15				
Roofer	12.00	1.37	.40		.04
Pitch and Asbestos	12.50	1.37	.40		.04
SHEET METAL WORKERS	12.57	1.00	1.34	g	.07
TRUCK DRIVERS, Building					
Straight, winch, transit mix on job site, road oilers, dump panel, pick-up, water and fuel trucks on site (including nozzle)	10.62	1.10	1.00		.12
Lowboy or Lowboy Trailers	10.86	1.10	1.00		.12
Euclid or similar equipment	11.01	1.10	1.00		.12
SPRINKLER FITTERS	15.55	.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))					

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Labor Day; D-Independence Day; E-Thanksgiving Day; F-Christmas Day

Footnotes:

a. Paid Holidays: B, C, D, provided the employee is on the payroll 5 days prior to the holiday and reports to work the day after the holiday.
b. B, C, D, E, and F (Paid Holidays)
c. A through F plus the day after Thanksgiving (Paid Holidays)
d. Employer contributes 8% of basic hourly rate for 5 years of service as Vacation Pay Credit
e. B, C, D, F, plus 2 consecutive hours to vote on Election Day (Paid Holidays)
f. B, C, provided the employee has been employed on any day of the week before the holiday (Paid Holidays)
g. The last 2 hours off with pay on the 1st Tuesday after the 1st Monday of November provided they are working on a job beyond 50 miles from the shop

LABORERS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.99	.70	1.00	h	
CLASS B	10.19	.70	1.00	h	
CLASS C	10.39	.70	1.00	h	
CLASS D	10.59	.70	1.00	h	

Footnote:

h. Paid Holidays: New year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day provided the employee has worked the day before and after the holiday

CLASS A

Laborers, drill helpers, flagmen, outboard and hand boats

CLASS B

Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer

CLASS C

All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman

CLASS D

Blasters, form setter, stone or granite curb setters.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	12.00	1.40	3%+1.00	a	
Cable Splicer	16.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.80	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	10.20	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.00	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.80	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.42	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.04	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.73	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.35	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technicians	14.55	1.40	3%+1.00	a	
Cable Splicer	16.005	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	13.095	1.40	3%+1.00	a	

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.64	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.91	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	14.55	1.40	3%+1.00	a	
Certified Lineman Welder	15.27	1.40	3%+1.00	a	
Cable Splicer	16.005	1.40	3%+1.00	a	
Groundman Equipment Operator	14.55	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	12.36	1.40	3%+1.00	a	
Groundman Truck Drivers	11.64	1.40	3%+1.00	a	
Groundman	10.91	1.40	3%+1.00	a	

FOOTNOTE:
a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.82	1.15	1.25	a	.15
GROUP 2	12.91	1.15	1.25	a	.15
GROUP 3	13.08	1.15	1.25	a	.15
GROUP 4	13.35	1.15	1.25	a	.15
GROUP 5	13.80	1.15	1.25	a	.15
GROUP 6	14.02	1.15	1.25	a	.15
GROUP 7	14.31	1.15	1.25	a	.15

POWER EQUIPMENT OPEARTORS: BUILDING CONSTRUCTION CLASSIFICATIONS

GROUP 1: Oilers

GROUP 2: Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3: Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines, well points, two or more Herman Nelson and like heaters, batch and plant operators, seeding and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pack(beltcrete system), electric submersible pump 4" and over

GROUP 4: Dinkey locomotives, Barber Greene loaders, conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5: Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6: LeTourneau graders or scrapers, trenching machines, push cart

GROUP 7: Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CMB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day

Power Equipment Operators:
Heavy & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.09	1.25	1.45	k	.15
GROUP 2	12.65	1.25	1.45	k	.15
GROUP 3	11.41	1.25	1.45	k	.15
GROUP 4	10.31	1.25	1.45	k	.15

GROUP 1 Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

GROUP 2 Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity, concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP 3 A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M, but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibrator compactor, vibro tamp, well point

Power Equipment Operators: Heavy & Highway Construction (Cont'd)

GROUP 4 Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump or pavement grinder), power broom (towed), power beaterman, revinius widener, shell winder, steam cleaner, tractor

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D. Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
k. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday

Power Equipment Operators: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration, and repair on any existing structure which is intended for predominantly residential use

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	7.40	.95	1.05	1	.15
GROUP 2	7.45	.95	1.05	1	.15
GROUP 3	7.55	.95	1.05	1	.15
GROUP 4	7.71	.95	1.05	1	.15
GROUP 5	7.98	.95	1.05	1	.15
GROUP 6	8.10	.95	1.05	1	.15
GROUP 7	8.26	.95	1.05	1	.15

GROUP 1 Oilers

GROUP 2 Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3 Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUP 4 Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5 Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6 LeTourneau graders or scrapers, trenching machines, puch cart

GROUP 7 Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CMB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

FOOTNOTES:

1. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS 1	9.78	1.11	.85	m	
CLASS 2	9.83	1.11	.85	m	
CLASS 3	9.88	1.11	.85	m	
CLASS 4	10.03	1.11	.85	m	
CLASS 5	10.18	1.11	.85	m	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
m. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, greasers, truck tiremen, mechanic helpers

CLASS 2 - Tandems, batch trucks, mechanics

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

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: NEW YORK COUNTY: WESTCHESTER
DECISION NO. NY81-3062 DATE: DATE OF PUBLICATION
Supersedes Decision no. NY80-3023 dated April 11, 1980 in 45 FR 25010
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories,)Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	15.66	.9138	1.8276		
BOILERMAKERS	16.34	5%	15%	7%	.02
BRICKLAYERS, CEMENT MASONS, PLASTERERS, POINTERS, CAULKERS, CLEANERS & STONE MASONS	14.50	1.65	2.25	a	.07
CARPENTERS					
Building	13.35	1.40	1.50	1.30	.135
Heavy & Highway	14.25	1.40	1.50	1.30	.135
DOCKBUILDERS	13.25	1.85	1.78	1.01	.05
ELECTRICIANS	15.79	6%+b	9½%	10%	.5%+.02
ELEVATOR CONSTRUCTORS	13.21	1.195	.82+j	c+d	.035
ELEVATOR CONSTRUCTORS HELPER	9.91	1.195	.82+j	c+d	.035
ELEVATOR CONSTRUCOTRS HELPER (PROBATIONARY)	6.605				
ELEVATOR CONSTRUCTORS MODERNIZATION & REPAIR	11.23	1.195	.82+j	c+d	.035
ELEVATOR CONSTRUCTORS MODERNIZATION & REPAIR HELPER	8.42	1.195	.82+j	c+d	.035
ELEVATOR CONSTRUCTORS MODERNIZATION & REPAIR HELPER (PROB)	5.615				
GLAZIERS	13.75	.66	1.91	.67	.01
IRONWORKERS					
ornamental	12.21	1.21	3.55	1.00	.14
Structural	12.95	1.86	4.45	1.85+c	.11
LABORERS, Building					
Unskilled	9.70	1.25	1.70	d	
Equipment Operators, Drillers, Swinger Operators on Conveyor Belt, Pavement Breakers, Plastering, Accoustic Pumps, Barco and all Air Tampers, Vibrator Operators, Power Buggies, Fork Lifts, Power Jacks and all Pneumatic Equipment	9.95	1.25	1.70	d	
MARBLE SETTERS					
Cutters & Setters	13.35	1.21	1.71	e	
Carvers	13.50	1.21	1.71	e	
Polishers	13.03	1.21	1.71	e	
Crane Operators	11.35	1.21	1.71	e	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
Brush	11.65	.70	1.33	.50	.05
Spray	12.65	.70	1.33	.50	.05
Tapers	12.45	.70	1.33	.50	.05
Steel & Swing Stage, Boatswain Chair	13.31 7/7	.70	1.33	.50	.05
PILEDRIVERS & SOFT FLOOR LAYERS	13.35	1.85	1.78	1.11	.04
PLUMBERS	14.88	2.127	1.713	1.339	.334
ROOFERS	11.05	3.14	2.85		.15
SHEET METAL WORKERS	15.73	2.27	2.38		.13
SPRINKLER FITTERS	15.55	.95	1.40		.08
TERRAZZO WORKERS	11.88	1.32	1.50		
TERRAZZO FINISHER	9.84	1.21	1.50		
TILE SETTERS	12.675	1.15	1.10		
TILE SETTERS HELPERS	11.21	1.055	.77		
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))					

FOOTNOTES:
a. Paid Holidays: Columbus Day and one hour off with pay on Election Day
b. Employer contributes $7.50/day to a Security Benifit Fund
c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day provided the employee works a full half day preceding or following the holiday
d. One hr. off to vote on election day
e. Holiday: ½ day's pay for Labor Day
j. $8.00 per day

HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Blasters, blaster (quarry master) Joy drillers, wagon drillers, air track drillers, concrete form aligner, concrete form and curb form highway (steel), and deck winches on scows, jumbo driller	10.40	9%	9%	a+.82	
Asphalt curb machine operator, jeeper operator, pavement breaker operator, rock scalers, power saw operator, bit grinder or grinders, barco rammer operator, air tamper and all type powered tampers not covered by any other classification, steel kings, power buggy operator, jack hammer drillers, all type pneumatic tool and gasoline drillers, concrete saw or saws, asphalt screeder on barbergreen, form pin puller railroad spike puller, pumps and their operation, and pneumatic tools and service of air power, gunniting	9.85	9%	9%	a+.82	
General concrete laborers or anything pertaining to concrete which means any men handling aggregate or concrete materials and carpenters tender and steel handling, pipe layers, puddlers, asphalt worker, fine grade men between forms, epoxy and waterproofing	9.75	9%	9%	a+.82	
Joy driller's helper, wagon driller helper, air track driller helper, common laborers, signal men and pitman, truck spotters, powdermen, landscape and nursery men, and dump men	9.60	9%	9%	a+.82	
	9.50	9%	9%	a+.82	

HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: (CONT'D)					
Wrecking:					
Blasters	10.50	9%	9%	a+.82	
Barmen, and burner	10.00	9%	9%	a+.82	
Barmen helpers and laborers	9.85	9%	9%	a+.82	
Shaft and Tunnel in Free Air:					
Blasters	10.65	9%	9%	a+.82	
Concrete setters	10.85	9%	9%	a+.82	
Form setters	10.35	9%	9%	a+.82	
Miners, drill runners air, Tuggers, chippers, pneumatic tools and source of air-power pumps and their operations and vibrator operators	10.15	9%	9%	a+.82	
Puddlers	10.10	9%	9%	a+.82	
Chuck tenders, nippers, concrete laborers, tunnel sewer and water pipe reliners and Boring	10.00	9%	9%	a+.82	
Laborers	9.75	9%	9%	a+.82	
Powder carriers, signalmen	9.70	9%	9%	a+.82	
Brakemen	9.65	9%	9%	a+.82	
Outside laborers	9.60	9%	9%	a+.82	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; F-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; November Election Day; Veterans' Day; and Good Friday, provided employee works (2) two or more days in the calendar week in which the holiday falls.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Street Lighting Systems, installation of Signal Cable Systems, Overhead and Underground when installed on streets and right of way					
Linemen	13.15	6%+a	9½%	10%	.02
Compressor	10.94	6%+a	9½%	10%	.02
Lamp Changer	10.22	6%+a	9½%	10%	.02
Utility Outside Work					
Lineman, Compressor, Boring Machine, Dynamite Man, Groundman and Driver Groundman	15.79	6%+a	9½%	10%	.02
New Construction of Steel Towers, Substations, All Railroad Work Underground					
Linemen and Cable Splicers	13.26	6%+b	9½%	10%	.02
Equipment Operators	12.20	6%+b	9½%	10%	.02
Heavy Driver Groundman	10.87	6%+b	9½%	10%	.02
Driver Groundman	10.21	6%+b	9½%	10%	.02
Groundman	9.68	6%+b	9½%	10%	.02
Dynamite and Transit Men	11.80	6%+b	9½%	10%	.02
Mechanic	11.54	6%+b	9½%	10%	.02

FOOTNOTES:
a. Employer contributes $7.50 per day to Security Benefit Fund
b. Employer contributes $7.00 per day to Security Benifit Fund

POWER EQUIPMENT OPERATORS, BUILDING CONSTRUCTION PROJECTS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I-A	16.8525	6%+1.20	10%	a	2%
GROUP I-B	15.535	6%+1.20	10%	a	2%
GROUP II	15.94	6%+1.20	10%	a	2%
GROUP III-A	15.7975	6%+1.20	10%	a	2%
GROUP III-B	14.4775	6%+1.20	10%	a	2%
GROUP IV-A	15.515	6%+1.20	10%	a	2%
GROUP IV-B	14.335	6%+1.20	10%	a	2%
GROUP V-A	14.5125	6%+1.20	10%	a	2%
GROUP V-B	13.1925	6%+1.20	10%	a	2%
GROUP VI-A-1	18.22	6%+1.20	10%	a	2%
GROUP VI-A-2	17.3675	6%+1.20	10%	a	2%
GROUP VI-A-3	16.3675	6%+1.20	10%	a	2%
GPOUP VI-A-4	17.0625	6%+1.20	10%	a	2%
GROUP VI-A-5	21.0825	6%+1.20	10%	a	2%
GROUP VI-A-6	14.5125	6%+1.20	10%	a	2%
GROUP VI-A-7	20.7975	6%+1.20	10%	a	2%
GROUP VI-B-1	12.2125	6%+1.20	10%	a	2%
GROUP VI-B-2	13.1925	6%+1.20	10%	a	2%
GROUP VI-B-3	12.2275	6%+1.20	10%	a	2%
GROUP VI-B-4	15.41	6%+1.20	10%	a	2%
GROUP VII	16.855	6%+1.20	10%	a	2%

POWER EQUIPMENT OPERATORS, BUILDING CONSTRUCTION PROJECTS

GROUP I-A: Backhoe Oliver 88, Pordson, Dynahoe dual purpose and similar machines; barber green loader-euclid loader or similar type; conway or similar mucking machines; dragline, gradall, shovel, backhoe, etc. (crawler or truck); front end loaders; hydraulic boom; Jersey spreader; letourneau or tournapull (scrapers over 20 yards struck); mucking machines; pavement breaker(air ram); paver (concrete); road boring machine; road mix machines; ross carrier and similar machines; post hole digger; shovel (tunnels); side boom; spreader (asphalt); scoopmobile-tractor-shovel over 1½ yards; trenching machines-vermeer concretesaw trencher and similar; tractor type demolition equipment; winch truck (A Frame); hydraulic crane under 25 ton and cherry picker under 25 ton

GROUP I-B: Compressor (steel erection); pulse meter and push button (buzz box) elevator

GROUP II: Compactor self-propelled; grader; bulldozer D7 and similar tractors with a draw bar horsepower of 100 or over; mechanic (outside) all types; welder scrapers-20 yards struck and under; machine pulling Sheep's Foot Roller; vibratory rollers, etc. and roller 4 ton and over

GROUP III-A: Asphalt plant; boiler (high pressure); Bulldozer D6 and similar tractors with a draw bar Horse Power less than 100; concrete mixing plants; concrete pump; firemen; forklift; forklift (electric); joy drill or similar tractor drilling machine; loader-1½ yards and under; locomotive (all sizes); mixer concrete-21E and over; portable asphalt plant; portable batch plant; portable crusher; quarry master; stone crusher; well drilling machine and well point system

GROUP III-B: Compressor over 125 cu. feet; conveyor belt machine regardless of size,; lighting unit (portable & generator); welding machine (steel erection and excavation); and compressor plant

GROUP IV-A: Air tractor drill; batch plant; bending machines; concrete breaker; concrete spreader; curb cutter machine; farm tractor (all types); finishing machine-concrete; material hopper-sand stone-cement; mixer-concrete-under 21E; mulching grass spreader; pump-gypsum, etc.,, pump-plaster; roller under 4 ton; spreading and fine grading machine; syphone pump-air-steam; tar joint machine; turbo jet burner or similar equipment; vibrator (1 to 5); fine grading machine and roof hoist (tugger hoist)

POWER EQUIPMENT OPERATOR, BUILDING CONSTRUCTION PROJECTS CONT'D

GROUP IV-B: Compressor to 125 feet; dust collector; heater all types; pump; pump station (water and sewer); steam Jenny and sweeper

GROUP V-A: Concrete saw; oiler fuel truck and oiler grease truck

GROUP V-B: Mechanics helper; oiler; paint compressor; welder's helper and motorized roller (walk behind)

GROUP VI-A-1: Master mechanic and assistant master mechanic

GROUP VI-A-2: Helicopter hoist operator

GROUP VI-A-3: Welder certified

GROUP VI-A-4: Engineer pile driver

GROUP VI-A-5: Helicopter pilot

GROUP VI-A-6: Helicopter signalman

GROUP VI-A-7: Engineer,-all tower cranes, all climbing cranes and all cranes of 100 ton capacity or greater (3900 Manitowac or similar) irrespective of manufacturer and regardless of how the same is rigged (except for pile rigs)

GROUP VI-B-1: Utility man

GROUP VI-B-2: Second engineer

GROUP VI-B-3: Oiler (asphalt paver)

GROUP VI-B-4: Cable splicer

GROUP VII: Concrete-portable hoist; crane & hoist engineer-steel (concrete, material, supper structure sub-structure); derrick (stone-steel); elevator & cage; hoist-single, double, or triple drum; hoist-portable mobile unit; hoist engineer-concrete (crane-derrick-mine hoist); hoist engineer-material; overhead crane and power house plant

POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I-A	14.25	6% + a	9½%	b	2%
Group I-B	13.275	6% + a	9½%	b	2%
Group II-A	13.45	6% + a	9½%	b	2%
Group III-A	13.325	6% + a	9½%	b	2%
Group III-B	12.35	6% + a	9½%	b	2%
Group IV-A	13.20	6% + a	9½%	b	2%
Group IV-B	12.225	6% + a	9½%	b	2%
Group V-A	12.20	6% + a	9½%	b	2%
Group V-B	11.225	6% + a	9½%	b	2%
Group VI-A					
Class I	15.45	6% + a	9½%	b	2%
Class II	14.70	6% + a	9½%	b	2%
Class III	17.70	6% + a	9½%	b	2%
Class IV	14.45	6% + a	9½%	b	2%
Class V	17.95	6% + a	9½%	b	2%
Class VI	12.20	6% + a	9½%	b	2%
Class VII	13.2875	6% + a	9½%	b	2%
Group VI-B					
Miscellaneous					
Class I	11.225	6% + a	9½%	b	2%
Class L	10.40	6% + a	9½%	b	2%

CLASSIFICATION DEFINITIONS

GROUP I-A - Auger, auto grader, backhoe oilver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader - euclid loader or similar type machine, central mix plant operator, cherry picker (Cableway), compactor with blade, concrete portable hoist, S.M.I. or similar, conway or similar mucking machines, crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, letourneau or tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsemeter, push button (buzz box) elevator, road mix machines, ross carrier and similar machines, shovels (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" frame

GROUP I-B - Compressor (steel erection)

GROUP II - Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 or over, maintenance engineer, mechanic (outside) all types, welder, scraper - 20 yards struck and under, vibrator roller, etc., roller 4 ton and over

GROUP III- A - Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor plant, concrete pump, conveyor belt machine - irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader - 1½ yards and under, locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete - 21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, well drilling machine, well point system

GROUP III-B - Compressor, lighting unit (portable & generator), Welding machine (steel erection excavation)

GROUP IV-A - Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, curb cutter machine, farm tractor (all types), finishing machine - concrete, material hopper - sand - stone - cement, mulching grass spreader, roller under 4 ton, spreading & fine grading machine, steel cutting machine, sweeper, turbo jet burner or similar equipment, fine grading machine

GROUP IV-B - Compressor to 125 cu. ft., dust collector, mixer - concrete under 21E, heater - all types, pump 4 inches and over, pump station (water & sewer), pump - gypsum, etc., pump - plaster, steam jenny, syphon pump - air - steam, tar joint machine, vibrator (1 to 5)

GROUP V-A - Concrete saw, oiler (fuel or grease truck)

GROUP V-B - Oiler, stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4", roller motorizer (walk behind)

GROUP VI-A MISCELLANEOUS:

CLASS I - Master mechanic, Asst. master mechanic

CLASS II - Helicopter hoist operator

CLASS III - Engineer- all Tower Cranes, all climbing cranes and all cranes of greater (3900 Manitowac or similar) irrespective of manufacturer and regardless of how the some is rigged (except for pile rigs).

CLASS IV - Hoist engineer - steel sub-structure, engineer - pile driver

CLASS V - Helicopter Pilot

CLASS VI - Helicopter Signalman

CLASS VII - Jersey spreader, pavement breaker (air ram), Post hole digger

GROUP VI-B MISCELLANEOUS:

CLASS I - Safety man 60 ton crane & over

CLASS II - Oiler asphalt paver and utility man

Footnotes

a. Employer contributes $1.20 per hour to Supplemental Unemployment Benefit Fund.

b. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and Christmas Day.

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: McIntosh
DECISION NO. OK81-4071 DATE: Date of Publication
SUPERSEDES DECISION NO. OK80-4066 dated July 25, 1980 in 45FR49837
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-STONEMASONS	11.75	.60	.40		.05
CARPENTERS (Northern half of county)					
Carpenters	11.28	.65	.75		.08
Millwrights-Piledrivermen	11.78	.65	.75		.08
CARPENTERS (southern half of county)					
Carpenters	9.80	.55	.85		.05
Millwrights-Piledrivermen	11.15	.55	.85		.05
CEMENT MASONS	9.90				
ELECTRICIANS:					
ZONE I - A 30 mile radius from Post Office of City of Muskogee					
ZONE II - Area outside zone I					
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%
ELEVATOR CONSTRUCTORS	13.94	1.345	1.085	a+b	.035
ELEVATOR CONSTRUCTORS HELPER	70%JR	1.345	1.085	a+b	.035
GLAZIERS	12.62	.70	.30		.01
IRONWORKERS	13.35	.80	1.15		.12
LABORERS:					
GROUP I	7.85	.25	.40		
GROUP II	8.15	.25	.40		
GROUP III	8.35	.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 man is directly tending lathers, masons or plasterers; water boys, when used.

LABORERS CLASSIFICATION DEFINITIONS CONT'D

GROUP II - All machine tool operators, all sewer and drain tile layers and handling at the ditch, excluding distribution; op. of water pumps up to four inches and slip form jack; 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 treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pumpcrete machines; and gunnite mixing machines, including liquid acids, or like materials when injurious to health, eyes 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 sand blaster, except nozzle; signalmen and 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 operator (or 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, to and half and under)	8.91		3%		1/2%
PAINTERS:					
Brush and roller	11.05		.40	.20	.10
High work and stage	11.65		.40	.20	.10
Sandblasting & spray	11.90		.40	.20	.10
Hot or bituminous	12.55		.40	.20	.10
Sheet rock power tools	13.45		.40	.20	.10
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 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

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS-STEAMFITTERS	$15.60	.80	1.10		.20
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.50	.50	.72		.10
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS	14.02	.90	.60		
TERRAZZO WORKERS FINISHERS	11.63	.90			
TERRAZZO WORKERS FLOOR MACHINE OPERATORS	11.80	.90			
TERRAZZO WORKERS BASE MACHINE OPERATORS	12.10	.90			
TILE LAYERS	14.02	.90	.60		
TRUCK DRIVERS:					
Group I	10.43				
Group II	10.53				
Group III	10.63				

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 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 including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turnerpulls, 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 three yards.

GROUP V - Ready-mix concrete trucks three yards and over

FOOTNOTES:
a - 1st 6 months - none; 6 months to 5 years - 6%; over 5 years - 8% of basic hourly rates.
b - Paid Holidays

PAID HOLIDAYS:
A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Day after Thanksgiving Day; G - 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).

federal register

Friday
September 11, 1981

Part IV

Department of Health and Human Services

Food and Drug Administration

Institutional Review Boards; Request for Information

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81N-0279]

Institutional Review Boards; Request for Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is seeking comments on the advisability of, and possible mechanisms for reducing its involvement in the review of early phase clinical investigations in a way that would facilitate the drug approval process but not lessen human subject protection. As part of this appraisal, FDA is interested in obtaining information from Institutional Review Boards (IRB's) about their willingness to assume additional review responsibilities over certain clinical investigations conducted under an investigational new drug exemption (IND). FDA is interested in obtaining views from IRB's and others to supplement information already obtained in the process of promulgating the current IRB regulations. This information will permit FDA to consider the feasibility of later activities which might lead to increasing IRB responsibilities in the drug approval process without changing the standards of human subject protection to which the agency now adheres. This document is a request for information, not a proposed regulation.

DATE: Written comments by November 10, 1981.

ADDRESS: Written comments should be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Halyna P. Breslawec, Office of Health Affairs (HFY-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: FDA is reviewing the human drug approval process and attempting, as part of that review, to find ways in which the time required for approval can be shortened without endangering the public health. Changes that have been suggested and discussed both inside and outside the agency involve revising regulations to reduce the agency's direct involvement in the review and approval of early stages of clinical investigations. One strategy being explored to accomplish this is to give to local review committees (Institutional Review Boards (IRB's)) exclusive review responsibility for certain drug investigations. Before considering this option in more detail, FDA is asking for public comments and suggestions on the feasibility and wisdom of such a change. Earlier FDA proposals relating to IRB's and review of mechanisms utilizing expanded IRB functions have provided some information on this topic.

Clinical testing of previously untested drugs usually consists of three separate phases. Initial testing in humans (Phase I) begins with short-term studies in a small number of normal subjects or patients to test the properties of the drug and levels of toxicity, metabolism, and when appropriate, pharmacologic effects. After basic information about the drug is obtained, larger, more detailed studies in patients (Phase II) are performed to evaluate the effectiveness of the drug and to obtain information about the drug's relative safety. Finally, more extensive testing is performed on patients (Phase III) to systematically assess the drug's safety and effectiveness.

Current regulations governing the clinical investigation of drugs provide for review of proposed human studies both by FDA and by local IRB's. Under current regulations, before human testing may begin, the sponsor of an investigation must submit a Notice of Claimed Investigational Exemption for a New Drug (IND) to FDA containing complete information about the drug, its composition, its source, the method of manufacturing, and how the drug is intended to be used. The IND must also contain the results of prior investigations with the drug, including the results of animal studies showing that the drug is reasonably safe for human testing, and the proposed protocols or plans for the tests. In addition to the submission of data, the sponsor must also make a number of commitments intended to ensure that the proposed investigation will be conducted in accordance with applicable regulations. Thus, the sponsor must make a commitment that an IRB will be responsible for the initial and continuing review and approval of the proposed clinical investigation. The sponsor must also provide assurance that the investigators will report to the IRB all changes in the investigation that may involve risks to the human subject, and that the investigators will not make any changes in the research without IRB approval. The agency has 30 days from receipt of the IND to notify a sponsor that an IND is deficient. If the sponsor is not notified of any deficiencies in 30 days, human testing may begin.

Current and Potential Approaches

During the last several years FDA has been exploring possible revisions to the IND regulations to improve the efficiency of the investigational drug review process and to reduce the burden associated with early stage clinical investigations, i.e., Phases I and II. Several models designed to "deregulate" the new drug approval process have been suggested.

The agency notes that for certain kinds of clinical investigations, local review boards or functionally equivalent bodies now carry out all or part of FDA's normal review functions. For example, an IND is not required when a radioactive tag is used during the course of a research project intended to obtain information regarding basic human physiology, pathophysiology, or biochemistry, but not intended for immediate therapeutic or diagnostic purposes or to carry out a clinical trial (21 CFR 361.1). Instead, there are alternative requirements for these studies including dose limits, research committee review, and reporting. FDA believes that, based upon the absence of a known safety problem apart from the potential hazard of radiation exposure, and upon the experience of the Nuclear Regulatory Commission with peer review of research studies conducted under its auspices, IRB approval and monitoring of such studies is acceptable.

Certain studies are exempted from FDA review on the basis of the degree of risk to human subjects. The recently finalized investigational device exemption (IDE) regulations (21 CFR Part 812) are structured so that an investigation of a device other than a significant risk device is considered to have an approved IDE if certain minimum requirements are met, including IRB review and approval of the study. Prior submission of an IDE to FDA is not required. These regulations were implemented under the Medical Device Amendments of 1976 (Pub. L. 94-295).

Several other alternatives for reducing FDA review functions have been suggested. One of these would be maintaining the current system of dual review by FDA and IRB's but confining FDA's discretion to stop an investigation to a narrowly defined safety standard. Another alternative was suggested in a petition submitted to FDA by the Pharmaceutical Manufacturers Association on November 30, 1980. This petition proposed delegating review of early phase clinical investigations to

IRB's. (Copies of the petition may be obtained from the Dockets Management Branch.) These and other alternatives have been discussed in a variety of forums, dealing with the reform of the drug investigation regulatory process, both inside and outside the agency. One such forum includes discussion of comments on the proposed IRB regulations (see preamble to the final regulations (46 FR 8958; January 27, 1981)). The agency currently is assessing the merits and feasibility of various alternatives.

Request for Specific Information

In looking at the merit of alterntive review schemes, FDA will carefully evaluate its experience with review of radiopharmaceuticals and nonsignificant risk devices. In addition, the agency recognizes the comments which previously have been received on the responsibility of IRB's and these will be considered along with the information received in response to this notice. At the same time, FDA believes that to make an accurate assessment of the potential merits of the various deregulatory models it must have a better gauge of the perceptions of IRB members and others, particularly those representing institutions where such research is conducted, of the feasibility of the alternative review procedures. In particular, FDA would like to determine whether IRD's have the resources and are willing to assume additional responsibilities for the conduct of the early phases of clinical investigations. FDA is soliciting views on the following:

1. The willingness of IRB's to assume additional responsibilities and authorities for reviewing, approving, and monitoring early phases of drug testing (Phase I or Phase I/Phase II).

2. The capability of IRB's to assess the scientific merit and general safety of clinical studies to a greater extent than is now required. The ability of IRB's to obtain the views of experts (IRB members or not) in relevant disciplines (e.g., toxicology and clinical pharmacology) as needed to review adequately clinical studies.

3. Problems to IRB's, such as resources, time commitments, funds, and liability, which might be associated with additional responsibilities. The extent to which these problems could or could not be overcome.

4. The advisability of delegating only limited additional authorities to IRB's, while requiring FDA review in specific situations; for example, high risk studies or studies involving specific drug categories.

5. The effect of increased IRB responsibilities with concomitant decreased FDA involvement on expediting the drug approval process.

Although FDA is particularly interested in comments from IRB's, their chairpersons and members, comments from institutions, sponsors, clinical investigators, and other interested individuals or groups are welcome.

Interested persons may, on or before November 10, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this notice. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 8, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 81-26132 Filed 9-10-81; 8:45 am]

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Part V

Department of Agriculture

Agricultural Marketing Service

Milk in the Alabama-West Florida Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Marketing Agreement and Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1093 (Tentative)

[Docket No. AO-386]

Milk in the Alabama-West Florida Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends establishing a Federal milk order for the proposed Alabama-West Florida marketing area. Associated Milk Producers, Inc., a dairy farmer cooperative headquartered in Montgomery, Alabama, proposed the new milk order. The proposal was considered at a public hearing held June 23–July 2, 1980. On the basis of the evidence obtained at that hearing, the Department has concluded that a Federal milk order is needed to provide stable and orderly conditions for the marketing of milk in the proposed area.

DATE: Comments are due on or before October 13, 1981.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5443.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of U.S. Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior document in this proceeding: *Notice of Hearing:* Issued May 20, 1980; published May 23, 1980 (45 FR 35168).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of milk in an area tentatively identified as the Alabama-West Florida marketing area.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, by the 30th day after publication of this decision in the **Federal Register**. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations, as hereinafter set forth, concerning the tentative marketing agreement and order were formulated on the basis of the record of a hearing conducted at Montgomery, Alabama, on June 23–July 2, 1980, pursuant to notice thereof issued May 23, 1980 (45 FR 35168).

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed maketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If an order is issued what its provisions should be with respect to:

(a) Handlers to be regulated and milk to be priced and pooled;

(b) Classification of milk and assignment of receipts to classes of utilization;

(c) Pricing of milk;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Description of the market. The April 1, 1980,[1] population of the proposed marketing area was 3,890,061 persons in Alabama, and 421,002 in the four Florida counties, for a total of 4,311,063 persons. Major population centers include Huntsville, Birmingham, Montgomery, and Mobile, Alabama, and Pensacola, Florida.

Dairy farming constitutes a relatively minor portion of the agricultural production activities in the proposed marketing area. Data contained in one of the exhibits show that in 1974 the value of dairy products sold by Alabama farms with sales of $2500 and over amounted to only 5.3 percent of the total value of farm products sold by such farms. For the four Florida counties, the percent of such sales accounted for by dairy products varied from 1.8 percent (Santa Rosa County) to 17.6 percent (Escambia County), while a specific figure for Okaloosa County was not shown (less than .05 percent of less than $50,000).

Milk production data show that dairy farming is declining in Alabama. Alabama's milk output declined from 830 million pounds in 1973 to 603 million pounds in 1979, a decline of about 27 percent in seven years. Comparable data for the four-county area in Florida are not available.

While milk production is declining, the population of the proposed marketing area is growing. The estimate noted earlier for April 1980 is a 3.8 percent increase from 1978, and a 13.7 percent increase from 1970. Thus, the market may be portrayed as an area where the demand for milk is increasing at the same time that local supplies are declining. This latter point is reflected in raw milk imports from other states into Alabama that increased from 37 percent of the total supply used by Alabama plants in 1976 to 53 percent in 1979. Moreover, imports of packaged milk increased 94 percent over the same four-year period, apparently in response to the early 1977 termination of resale pricing regulations in Alabama.

The record provides no specific estimate of the proposed market size in terms of the total milk that would be pooled under the order. Various data were presented for the Alabama consolidated milkshed, which includes all the plants in Alabama that likely would be pooled under the proposed order. However, no such information was provided for the two plants located outside Alabama that probably would be pooled.

Nevertheless, an estimate of the approximate level of Class I sales within the proposed marketing area can be made. The procedure used here was to compute a weighted average per capita consumption figure for fluid milk products in 6[2] nearby Federal order markets for 1978[3] and multiply that

[1] Official notice is taken of "1980 Census of Population and Housing," Advance Report, Nos. PHC80–V–2 and PHC80–V–11, Issued March 1981, Bureau of the Census, U.S. Department of Commerce.

[2] Georgia, New Orleans-Mississippi, Nashville, Upper Florida, Tampa Bay, and Southeastern Florida

[3] Official notice is hereby taken of Federal Milk Order Market Statistics, Annual Summary for 1979, Statistical Bulletin No. 641, issued July 1980 by the

Continued

figure by the 1980 population of the proposed market. On this basis (225 pounds per person X 4,311,063 persons), estimated in-area sales totaled 970 million pounds per year, or an average of 81 million pounds per month.

The 1976 Class I and I–A sales for Alabama, according to information released by the Alabama Dairy Commission, were 67.7 million pounds per month. The Alabama population estimate for 1978 was 3,742,000 persons. Per capita consumption derived from these two numbers was 217 pounds. Using the Alabama per capita figure times the 1980 population yields a projected in-area Class I sales figure of 78 million pounds monthly for the proposed marketing area.

Thus, a reasonable estimate of the Class I sales within the proposed marketing area is 78–81 million pounds, which nevertheless may tend to underestimate the total Class I sales that would be pooled under the order because it does not include out-of-area sales. Out-of-area sales may be larger for some plants associated with the market than their in-area distribution. The record implies, for example, that such is the case for the plant at Tupelo, Mississippi. If so, the total amount of Class I milk that would be pooled could be somewhat larger (by an undetermined amount) than the amount estimated above.

Also, the record provides no precise estimate of the total amount of milk that likely would represent the regular supply for the proposed market. This is partly because the record contains little or no evidence on milk supplies associated with the two plants located outside Alabama that are associated with the market. However, an estimate of about 100 million pounds monthly may be reasonable on the basis that additional supplies sufficient to keep the fluid market supplied on a year-round basis are anticipated. Some reserve supplies are necessary to cover daily, weekly, and seasonal variations in milk production and demands for fluid use.

The Florida portion of the proposed marketing area has been without milk marketing regulation for many years. The opposite is true for Alabama where state regulation of the dairy industry has been in operation since the mid 1930's. However, the effectiveness of such regulations has been lessened due to recent court decisions.

1. *Character of commerce.* The proposed Alabama-West Florida marketing area includes all 67 counties in the State of Alabama and four adjoining counties in Florida.

Handlers that likely would be fully regulated by the proposed order receive Grade A milk from more than 900 dairy farms located in six states and additional milk supplies are received from plants located outside the proposed marketing area.

There are 21 milk distributing plants that likely would be fully regulated under the proposed order. Of these, 20 are located within the proposed area. Several of the plants distribute milk in other states, including Georgia, Mississippi and Tennessee. On the basis of limited Class I sales in the order areas, ten of these plants are partially regulated under one or more Federal milk orders covering areas outside the proposed marketing area, and one has regularly been a pool plant under the Georgia or New Orleans-Mississippi orders.

Milk packaged in 17 plants located in Florida, Georgia, Indiana, Louisiana, Mississippi, Missouri, South Carolina, and Tennessee is distributed within the proposed marketing area.

Cooperative associations ship milk not used for fluid use that is produced in Alabama to manufacturing plants in Tennessee and Mississippi for surplus disposition.

The Agricultural Marketing Agreement Act of 1937, as amended, provides in section 608(c)(1) that milk orders issued by the Secretary shall regulate such agricultural commodity, or product thereof, as is in the current of interstate commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof. On the basis of the record evidence summarized in the preceding paragraphs, it is concluded that the handling of milk in the proposed marketing area is in the current of interstate commerce. Accordingly, the Department has the authority to establish a Federal milk order for this area.

2. *Need for an order.* A Federal milk marketing order for the proposed area was supported by three major cooperative associations that supply milk to most of the handlers that would be fully regulated. Together, the three associations represented about 75 percent of the producers supplying the proposed market at the time of the hearing. Proponent of the new order was Associated Milk Producers, Inc. (AMP), Montgomery, Alabama. The other two cooperatives, Dairymen, Inc. (DI), Louisville, Kentucky, and Southern Milk Sales, Inc. (SMS), San Antonio, Texas, both strongly supported the adoption of an order. Representatives of the Alabama Farm Bureau endorsed the effort to obtain an order.

During the early part of 1980, Associated Milk Producers, Inc., was supplying about 33–34 million pounds of milk monthly from more than 400 member producers to 12 milk plants in the proposed marketing area. This represented about three-fourths of the cooperative's total production. Diversions to manufacturing outlets varied from about 8 percent to just under 15 percent of total production during January through May 1980. The balance of the members' total production was sold to other fluid milk plants outside the marketing area. AMP does not operate any milk plants.

Dairymen, Inc., at the time of the hearing, represented about 250 producers regularly supplying milk to eight processing plants in the proposed marketing area. Three of the eight plants are operated by Flav-O-Rich, a DI subsidiary, and they receive more than 75 percent of DI's total deliveries to fluid milk plants in the area. During January–March 1980, DI's shipments to the eight plants averaged about 16 million pounds per month. Additionally, in 1978 and 1979, a DI plant at Lewisburg, Tennessee, regularly shipped milk to Alabama plants. In early 1980, such shipments were minimal through March and none were made in April and May. The cooperative operates one ice cream manufacturing plant in Alabama. The data introduced at the hearing did not indicate how much milk associated with the proposed market by DI was diverted to manufacturing plants in the early months of 1980. However, in September–December 1979, DI's monthly diversions to manufacturing outlets ranged from two to four million pounds.

At the time of the hearing, the third cooperative, Southern Milk Sales, Inc., supplied milk from about 100 farms to six fluid milk plants in the proposed market. During January through May 1980, SMS deliveries to those plants averaged about 7.5 million pounds per month. The association operates no plants in connection with the proposed market, and only occasionally diverts milk to manufacturing plants from distributing plants in this market.

Several witnesses testified for the proponent cooperative on the need for a Federal order. A spokesman for Dairymen, Inc., presented the association's views regarding the need for an order. In addition, a professor in the Department of Agricultural Economics and Rural Sociology at Auburn University testified on the need for an order as a public service function of the University. The major viewpoints

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Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

of these hearing participants are briefly summarized as follows:

1. There is no effective application of classified pricing and pooling on a marketwide basis in the proposed marketing area to assure farmers of payment for their milk according to its use. Absent such a system, some processors in the proposed area buy milk from producers in other states at prices that differ from prices paid producers located in Alabama. The Alabama Dairy Commission only regulates the price of milk produced, processed, and sold within the State. Inequities result due to the lack of uniformity in prices paid for milk in the same use and which is in direct competition.

2. The combination of individual handler pooling under the State's program and the State's inability to price all milk received and processed at Alabama distributing plants results in a significant disparity in prices paid to producers for their milk. Not all producers delivering milk to a specific plant receive the same price f.o.b. that plant, nor do producers delivering to different plants receive the same price even though such plants are located in the same geographic area.

3. The prices paid some producers are not based on plant utilization, or marketwide utilization. Instead, they are paid flat prices. Such raw milk buying practices create disorder in the market, which is demonstrated by inequities in producer payments and inequities in raw milk costs to processors competing in a common area. Purchases of lower-priced milk for fluid use take the market away from producers who normally supply the local market, leaving them with surplus milk to be diverted to lower-priced manufacturing use. In some cases the local producers must seek what normally is a more distant alternative buyer, which increases costs and reduces marketing efficiency.

4. Under an individual handler pooling system, there is inequity among producers in balancing the daily milk requirements of distributing plants and in the handling of the necessary reserve and the seasonal surplus of the market. Cooperatives perform the function of balancing supplies, yet much of the milk so diverted to manufacturing use is not pooled and so the full costs of balancing are borne by the cooperatives. Thus, where nonpooled diversions by cooperatives are required by distributors, independent producers receive higher prices for their milk.

5. The regulatory program operated by the Alabama Dairy Commission is the only milk marketing regulatory program in effect in the proposed marketing area. That program is ineffective and its future is uncertain under current Alabama law. Thus, there is a low level of producer confidence in the State program.

6. Currently, adequate market information is not regularly available about milk marketing in Alabama, and almost no such information is available about milk marketing in the Florida portion of the proposed marketing area.

7. The auditing program of the Alabama Dairy Commission is inadequate, and no such program exists in the Florida portion of the marketing area. The auditing program conducted through a Federal order would provide greater assurance to producers that they would receive the full value for their milk based on how it was used by processing plants.

8. Individual handler pooling of milk as it exists in Alabama does not provide equity among producers and is a disorderly marketing procedure in today's milk market.

9. Some Alabama processors who distribute milk in price zones other than the zone where the plant is located are paying for their raw milk at Class I prices based on the point of sale of fluid milk products. AMP instituted "point-of-sale" pricing on June 1, 1980.

10. Cooperatives are under constant pressure to reduce the prices charged to handlers in certain areas, particularly from Birmingham, Alabama, northward. The pressure comes from handlers seeking to be competitive with other handlers who receive some, or even all, of their milk at lower unregulated prices from sources outside Alabama.

11. There is no effective program for determining whether producers are paid for their milk on the basis of accurate weights and butterfat tests.

There was no testimony directly opposing an order, but a spokesman for one group of producers who supply milk to a plant at Pensacola, Florida, stated the group's opposition to being included under any Federal order for Alabama. It was indicated that if the plant receiving their milk is to be regulated under a Federal order, the group would prefer that it be regulated under the Upper Florida order. However, this proceeding was not open to consideration of matters pertaining to the Upper Florida order, and no such proposals were received.

Two independent producers offered general testimony related to need for an order. One, who represented more than 50 other independent dairymen, urged that any regulations adopted be kept as simple as possible. Another, who said he represented 23 independent producers, opposed a marketwide pool, preferring instead an individual handler pool.

There was no handler opposition to an order expressed at the hearing. One handler's brief clearly stated that it took no position on the need for an order.

The cooperatives associated with the market generally agree that an overall system of classification, pricing, and accounting for milk should be adopted to restore stability, and that for such a system to be effective it must be established under Federal authority. Clearly, there is a consensus among the major producer groups that the state-administered program no longer effectively provides market order and stability.

The basic problem related to the need for an order is that the State of Alabama cannot classify and price milk produced outside the State, nor milk produced in Alabama and disposed of elsewhere. Over one-half of the milk supply utilized by Alabama handlers that would be regulated under a Federal order comes from outside the State. Thus, the State's classification and pricing program is not applicable to the major portion of the market's milk supply. Yet, milk produced in Alabama competes for the same Alabama retail markets as milk produced in Tennessee, and the out-of-state milk has the competitive advantage. Moreover, the state of Florida has not had a milk classification and pricing program since 1963.

The record indicates that at least two Alabama plants obtain most, if not all, of their raw milk supplies from dairy farmers in Tennessee. Such out-of-state milk is not subject to the Alabama Milk Commission's classified pricing program, but would be regulated under a Federal order.

Exhibits entered by a cooperative and by a dairy farmer from Tennessee show that a Birmingham area plant pays such dairy farmers for their milk under a base and excess plan unrelated to the classified use of milk in the plant. The dairy farmer introduced as an exhibit the milk purchase statement that he received from the plant for milk delivered during May 1980, which showed that he received $13.20 and $10.87 per hundredweight for base milk and excess milk, respectively (without adjustment for butterfat content). The base milk price was applicable at the farmer's barn, while the price for excess milk was the net price after deduction of hauling charges for the excess milk, which were about 85 cents per hundredweight. Adjusted to a 3.3 percent butterfat content, the producer received a weighted average price of

about $12.70 per hundredweight for his milk at the farm.

In the above example, the handler's cost for the base milk was $13.20 plus hauling, presumably about 85 cents per hundredweight, for a total price at the plant of about $14.05. However, the Alabama Dairy Commission's price for Class I milk at Birmingham was $14.74 for that month. Absent information on the plant's actual utilization of Class I and Class II milk, it is impossible to determine whether the dairy farmer's pay price was less than he would have received if paid on the basis of the plant's pool blend price at Alabama's prices. Nevertheless, such an ability to evade the State's classification and pricing program is not conducive to the maintenance of a stable and orderly market for milk.

A second example further demonstrates the nature of the problem that proponent seeks to address through obtaining a Federal order. In this case, another Tennessee producer testified that at the time of the hearing he was receiving a flat price of $13.75 per hundredweight for his milk delivered to a plant at Gadsden, Alabama. The hauling cost was 75 cents per hundredweight, so the producer's net return was $13.00 per hundredweight. Again, neither the handler's cost ($13.75 per hundredweight) nor the producer's return is in any way based on the plant's classified utilization of milk under the State program. However, it must be noted that the $13.75 price was at least $1.00 per hundredweight below the Alabama Dairy Commission's Class I price applicable at Gadsden for May, June, or July 1980.

The record indicates that utilization at the Gadsden plant varies from 70 to 88 percent Class I. Whether or to what extent the handler obtains milk at less than State prices in this example again depends on whether the plant's Class I utilization is at the high or the low end of that range of utilization.

As noted earlier, the plant at Pensacola, Florida, is not subject to any State regulations for classifying and pricing milk, and was not partially regulated under any Federal milk order in the spring of 1980. Thus, the plant is not subject to any classification and pricing regulations on its receipts of milk from dairy farmers. In this regard, a Florida dairy farmer, whose testimony was noted earlier, testified that as of June 1980 he and the other producers he represented were receiving a flat price of $14.65 per hunderedweight for their milk f.o.b. the Pensacola plant. In his case, the hauling cost was 38 cents per hundredweight plus a $2.00 stop charge. It is noted that the Alabama Dairy Commission's Class I price for June 1980, applicable to plants in the Mobile, Alabama, area (which is near Pensacola), was $15.13 per hundredweight.

Under the Alabama regulations, Class I milk products distributed out of state are designated as Class I–A and may be accounted for at prices different from the Class I price. This would be the case for milk distributed in the four unregulated Florida counties by plants located in Alabama. Under such a system, the proportion of a plant's receipts that is fully subject to Alabama's State regulations depends entirely on how much milk is obtained from and disposed of outside Alabama. The Alabama plants, therefore, are subject to varying degrees of regulation, and plant operators have no assurance that their competitors must pay at least the minimum class prices for their milk.

It is noted that the Alabama Dairy Commission's announced butterfat differential for adjusting payments to producers for variations from 3.5 percent butterfat content was 15 cents per one-tenth percent variation for the months of November 1979 through April 1980. However, one exhibit, a milk purchase statement for April 1980, shows a differential of 15.4 cents applicable to milk purchased from a Tennessee dairy farmer. Thus, a uniform butterfat differential did not apply to payments to all producers supplying milk to the proposed marketing area.

Another factor present in the Alabama market situation that contributes to market instability is unequal sharing of the burden of handling reserve milk supplies. The Alabama Milk Commission's regulations provide for individual handler pooling. Under that plan milk diverted to manufacturing plants is classified and priced on a load-by-load basis only if the processing plant operator makes a specific request to include a load in his plant's report of milk receipts and use. As a result, most of the milk that cooperatives have diverted to manufacturing uses in recent years has not been included in a plant's pool. Including diverted milk would, of course, lower the rate of return for any nonmember producers that are part of a plant's supply, and so handlers apparently have been reluctant to include a cooperative's diverted milk as part of their pool. this clearly has put the full burden of disposing of reserve milk supplies onto the dairy farmers who are members of the cooperatives. The costs of balancing supplies for handlers and handling the market's reserve milk supplies are not shared by nonmembers. While all the milk produced by a nonmember generally is pooled, the same often is not true for the members of a cooperative. For cooperative members, it is more likely that only the milk actually received at the plant (often only to supplement supplies of nonmember milk) will be priced under the State program.

Still another aspect of the current situation that must be recognized is that producers lack confidence in the current regulatory program for Alabama and they are uncertain whether the State's program will long endure. This latter point was borne out in testimony that the legislative authority for the State' milk pricing regualtions recently has been extended for relatively short periods of time. The record shows that in 1979 the authority to regulate milk handling was extended for two years, or until a Federal milk order could be implemented.

From the foregoing, it is clear that there is no overall plan whereby all dairy farmers who supply milk for distribution in the Alabama-West Florida marketing area are assured of payment for their milk in accordance with its use and at minimum prices that are uniformly applicable throughout the market. The problems of unstable marketing conditions encountered by the producers in the Alabama-West Florida marketing area, if they continue, could lead to even further dependence on outside milk supplies to meet the fluid milk needs of the area. A Federal milk order establishing a classified milk pricing system at reasonable levels and a marketwide pool for distributing the returns from milk sold at such prices uniformly among all producers will help provide the needed market stability. An environment of stable and orderly marketing conditions throughout the Alabama-West Florida marketing area depends on the adoption of a classified pricing plan based on audited utilization of all Grade A milk purchased by handlers from producers and an equitable division among all producers of the proceeds obtained from sales of their milk under the classified pricing plan.

Under a Federal milk order all producers who supply the proposed market will be assured that their milk will be sold at reasonable minimum prices applicable to the classified uses of milk provided herein and that each producer will share pro rata in the returns from such sales in the respective classes, including the lower priced used of reserve milk supplies not needed for fluid uses. Handlers will be assured that their competitors will pay for milk at not

less than the minimum prices set by the order and that such prices will apply whether the milk comes from farms in Alabama, Florida, Tennessee, or other states, and without regard to whether the milk is disposed of inside or outside the marketing area.

The record in this proceeding clearly shows that the dairy industry does not regularly have available detailed information regarding milk procurement and use in the Alabama-West Florida marketing area. Such information would be provided on a continuing basis under a Federal order, and would contribute to the development and maintenance of stable and orderly marketing conditions. Although the lack of such data does not necessarily demonstrate need for an order, the availability of complete and accurate market information should provide a substantial benefit to producers, cooperatives, and handlers alike.

It is concluded that a Federal order for the Alabama-West Florida marketing area as herein proposed will stabilize and improve milk marketing conditions in the area. The order is in the public interest in that it will establish orderly marketing conditions for producers and handlers relative to milk distributed in the proposed marketing area and will assure a continuing and adequate supply of high quality milk for consumers. Moreover, the order will effectuate the declared policy of the Act by providing for:

1. The establishment of uniform minimum prices to handlers for milk received from producers according to a classified plan based upon the utilization made of the milk;

2. A regular and dependable procedure that affords all interested parties the opportunity to participate, through public hearings, in the determination of changes that may be required in the marketing plan in order to insure an orderly market;

3. An impartial audit of handlers' records to verify the payment of required prices;

4. A system for verifying the accuracy of the weight and butterfat content of milk purchased;

5. Uniform returns to producers supplying the market based upon an equal sharing among all such producers of the returns from the order prices for both the higher-valued Class I milk and the lower returns from the sale of reserve milk that cannot be marketed for fluid use; and

6. Marketwide information on receipts, sales, prices, and other related data concerning milk marketing.

3(a). *Handlers to be regulated and milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specific definitions to describe the marketing area, route disposition, the types of plants, the various categories of regulated persons (handlers), and the persons (producers) whose milk will be subject to the uniform prices.

Marketing area—The Alabama-West Florida marketing area should include all the territory within the boundaries of Alabama and the Florida counties of Escambia, Santa Rosa, Okaloosa and Walton. The defined marketing area should include all piers, docks, and wharves connected therewith and all craft moored at such facilities. The marketing area should include, as well, all territory occuped by municipal, state, or federal government reservations, installations, institutions, or other similar establishments if any part thereof is within the boundaries specified above.

The record in this proceeding clearly establishes that the entire State of Alabama and the four Florida counties comprise a single marketing area for milk. Such marketing area defines an area wherein the plants that would be fully regulated are the primary sources of milk for consumers.

The basic data to support the marketing area definition adopted herein were obtained from a survey of 523 grocery stores. The estimates of fluid milk distribution by counties that were placed in the record were based solely on the observations made in the grocery stores surveyed. There are limitations, of course, to the conclusions that may be drawn from such data. Nevertheless, the information is useful for identifying which plants compete with other plants for Class I sales and for providing a reasonable estimate of the geographic territory over which that competition extends. It also should be pointed out that, with minor exceptions, the survey data were not challenged at the hearing.

The proposed marketing area is made up of 67 counties in Alabama and four counties in Florida. An analysis of the survey data shows that with only minor exceptions, the proposed area is a largely self-contained market with respect to milk distribution. For example, in 38 of the 71 counties, the survey indicates that 100 percent of the distribution is from plants located within the marketing area. Plants in the marketing area distributed at least 75 percent of the total in another 18 counties. Thus, in 79 percent of the counties, at least ¾ of the distribution observed in the survey was from plants located in the marketing area.

In five Alabama counties (Geneva, Houston, Lee, Russell, and Sumter) the survey data indicated that more than 50 percent of the distribution came from plants that would not be regulated under the new order. For two other counties, Barbour and Henry, a witness for Beatrice Foods (Meadow Gold) disagreed with the survey results and indicated that sales in these two counties were spit about 50 percent each to Alabama plants and to plants fully regulated under the Georgia order. Thus, it is estimated that plants fully regulated under the Georgia Federal order distributed at least half of the total milk distributed in six counties in southeastern Alabama. The observed data for Sumter County indicate the majority of milk sold there originates at a plant pooled under the New Orleans-Mississippi Federal milk order. In these seven counties, the primary source of milk appears to be plants regulated under other orders.

Nevertheless, these counties should be included in the marketing area. Failure to do so would serve no real purpose since the milk being distributed in them would be regulated, either under the Alabama-West Florida order or under some other order. Moreover, inclusion of the seven counties will not result in full regulation of any plant that otherwise would be unregulated, or cause a plant to shift regulation from another order to the order adopted herein. Including the counties also will simplify the reporting requirements of handlers and will simplify administration of the order.

The marketing area is also characterized by substantial overlapping of sales territories. This further demonstrates that the marketing area defines an area within which there is considerable competition among handlers. One plant was found to have its products in stores near the Alabama-Tennessee border as well as in stores in Florida. Most of the counties in the marketing area were shown to have milk distributed from three or more plant located in the marketing area. In only six counties in the proposed marketing area was there distribution from only one plant located within the area.

In addition to competing with each other for Class I sale in common areas, many of these plants either compete with each other for milk supplies, or receive at least a portion of their supplies from the same cooperative association.

As noted elsewhere in this decision, a group of producers who deliver their milk to the plant at Pensacola, Florida, urged that the four Florida counties not

be included with any order adopted for Alabama. Nevertheless, there is compelling evidence that the Florida territory should be included in the marketing area. The plant in Pensacola distributes milk in five Alabama counties. The survey data indicate that such sales comprise about 35 percent of that plant's total distribution within the proposed area.

In addition, the grocery store survey shows that five plants located in Alabama distribute milk into the Florida portion of the market. These plants distributed from three to 24 percent of their total in-area sales within the Florida territory. These data, and those noted in the preceding paragraph, provide a substantial basis for not limiting the proposed marketing area to just the State of Alabama.

Route disposition. A definition for "route disposition" is a convenience for specifying the various kinds of fluid milk sales outlets that will be considered in determining whether a distributing plant would be regulated under the order. As proposed by the order proponent, and adopted herein, route disposition would mean any delivery of a fluid milk product classified as Class I milk to a retail or wholesale outlet (except to a plant), either directly or through any distribution facility or vendor, and including any disposition from a plant store or through a vending machine. It would not include the delivery of fluid milk products to a handler's distribution points. The distribution from such points would be considered a route disposition from the milk plant where the fluid milk products were processed and packaged.

Plant. The order should contain a "plant" definition for proposes of clarity, ease of order interpretation and reference. As proponent suggested and as adopted herein, "plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged.

Separate facilities used only as a distribution point for storing packaged fluid milk products in transit would not be a plant. Similarly, separate facilities at which milk is only reloaded from one tank truck to another would not be a plant as defined herein.

In connection with the discussion of the plant definition, two related issues should be considered. In that regard, the proponent cooperative included a reload point definition in the proposed order. A witness for the cooperative testified that a definition of such facility was needed to clearly establish it as a non-plant and thus not a pricing point. The witness described such a facility for the record as generally an enclosed building without stationary holding tanks (to cool and store milk) where milk is transferred from one tank truck to another. However, he also indicated that no such facility was being used to supply milk to the Alabama market at the time of the hearing.

The plant definition adopted herein provides the basic guidelines as to what constitutes a reload point. In that regard, "separate facilities without stationary holding tanks which are use only as a reload point for transferring bulk milk from one tank truck to another" would not be a plant under the plant definition adopted herein. Hence, the cooperative's intent with respect to a reload point is accomplished in the plant definition. There is no need to include a separate reload point definition in the order.

Another proposal pertaining to the definition of a plant was discussed at the hearing. Five handlers who would be fully regulated under the order proposed that a manufacturing plant which is operated by a handler who also operates a fluid milk plant not be considered a part of the fluid milk plant operation for pooling purposes if the manufacturing and fluid processing facilities are operated completely separate of each other. A spokesman for the handlers testified that several dairy companies in Alabama operate separate ice cream manufacturing plants in addition to their fluid milk plants. He stated that such manufacturing plants, which keep separate books and records, do not distribute fluid milk products on routes and normally do not receive milk from dairy farmers. Rather, receipts at the manufacturing plant essentially are milk and cream that are excess of the handler's distributing plant operations and which are transferred to the handler's manufacturing plant from the distributing plant.

As provided herein, an ice cream manufacturing plant would be defined as a "plant" since it processes milk. However, the plant would not be considered a part of a distributing plant unless the two plants are operated jointly on the same premises, with the receiving, storage, or processing facilities being shared. Whether the separately operated manufacturing plant would be a pool plant would depend on whether the plant also distributed any fluid milk products in the market or shipped bulk milk to pool distributing plants. The provisions that would detemine the pooling status of a plant are discussed later under the heading "pool plant."

Distributing plant. The order should define a distributing plant as a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition in the marketing area during the month. The definition adopted herein is patterned after the one proposed by the order proponent, with one exception that is discussed later. The definition for a distributing plant is provided to describe the activities conducted at such a plant and to distinguish this type of plant operation from others. It also is helpful in referring to this particular type of plant throughout the order.

Proponent's definition referred to milk "approved for fluid consumption." The definition adopted refers to "Grade A milk" and not to milk "approved for fluid consumption." The terms are essentially synonymous, however, when used in context of the market encompassed by this order area.

The Alabama Department of Public Health is responsible for regulating the State's dairy industry with respect to milk sanitation and quality. It is responsible for all milk and milk products from the time the milk is picked up at the farm, transported to a processing plant, processed, packaged and delivered to the consumer. A similar program is conducted by the Division of Dairy Industry of the State of Florida. The health regulations and the standards for rejection of milk in the two states in many instances are identical.

In that regard, both states conduct routine inspections of dairy farms and processing plants. Rigid surveillance programs are conducted by agencies of both States to insure that only high quality milk and milk products are sold to consumers, and the regulations of both states specify that only Grade A milk may be sold. This means that the dairy farms are inspected and approved for the production of Grade A milk. Likewise, all plants processing or packaging milk for fluid use must be approved for handling Grade A milk. Accordingly, it is appropriate to refer in the order to "Grade A milk", rather than to milk "approved for fluid consumption", as proposed.

Supply plant. A "supply plant" also should be defined under the order. As adopted herein, "supply plant" means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk, and from which fluid milk products are transferred during the month to a pool distributing plant.

The definition provided herein is similar to the one suggested by the order proponent. However, for the reasons

discussed under the definition of a distributing plant, the supply plant definition should reflect that the plant must be approved to handle Grade A milk.

Proponent's witness testified at the hearing that there were no supply plants furnishing sufficient quantities of milk to distributing plants on a regular basis to qualify for pool plant status. The cooperative also indicated that it was not currently operating a supply plant and has no plans to do so in the future. The only reason proponent advanced for including a supply plant provision for the Alabama-West Florida order was that other Federal orders in the Southeast provide a definition for such plants. However, under cross-examination the cooperative's spokesman acknowledged that although the Alabama market essentially is a direct-delivery market, it is possible in the future that milk may need to be brought into the market through supply plants from procurement areas located considerable distances from the market. In these cases, according to the witness, it would not be economical to furnish the milk on a direct-ship basis.

Pool plant. Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants engaged in serving the fluid needs of the regulated market and those that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. Because of differences in marketing practices and functions between distributing plants, supply plants and cooperative "balancing" plants, separate performance standards for each type of operation are provided in the attached order.

The following discussion sets forth the pooling standards that should apply to the various types of pool plants. To facilitate the discussion, it is noted that the performance standards for pooling a distributing plant and a supply plant provide that the plant's required association with the market should be measured in terms of the proportion of its milk receipts that are disposed of in the market. It is intended that such receipts would include any producer milk that is diverted from the plant to nonpool plants. Although diverted milk is not physically received at the plant from which diverted, it is, nevertheless, an integral part of that plant's supply of milk and acquires producer milk status by virtue of its association with such plant. Therefore, divered milk should be included in the total receipts of milk at the pool distributing plant or the pool supply plant from which the milk was diverted for the purpose of determining whether the plant qualifies as a pool plant.

Milk that a cooperative bulk tank handler diverts from a pool plant to a nonpool plant also should be included in such plant's receipts for purposes of determining the plant's pool status. Requiring all diverted milk to be included as a receipt at pool plants from which diverted in determining their pool status will insure the integrity of the order by requiring all producer milk to be associated with pool plants.

Along that same line, milk diverted to a supply plant from an other order plant should not be included as a receipt of milk at the supply plant for the purpose of determining whether the plant qualifies as a pool plant. Since such milk would be considered a part of the total suppy of milk at the plant from which diverted, it should not be included in the supply plant's receipts. This will permit milk to be diverted to a supply plant with manufacturing facilities for processing without affecting the pool status of the supply plant. A pool supply plant with manufacturing capabilities may represent the nearest available outlet for milk surplus to the fluid needs of another Federal order area.

No similar accommodation needs to be made when milk is diverted to a distributing plant. Since these plants are essentially fluid bottling plants, there really is no reason to divert milk to these plants for any reason other than for bottling purposes. Hence, all milk physically received (including milk diverted to such plant) at the plant should be considered in the plant's total receipts for the purpose of determining whether the distributing plant qualifies as a pool plant.

Provision also is made for a cooperative association to pool a balancing plant. The pooling standard for such a plant would be measured in terms of the cooperative's overall supply function for the market, i.e., the proportion of the cooperative's member producer milk that is delivered to pool distributing plants.

In connection with performance standards for pool plants, Dairymen, Inc. (DI) submitted a modification at the hearing to impose seasonally varying Class I utilization standards for pooling distributing plants and supply plants. Before discussing the appropriate pooling performance standards for the various types of plants, the question of seasonality of fluid sales and producer receipts should be reviewed.

The order proponent, Associated Milk Producers (AMP), proposed that the months of August through February be recognized as the season when milk production is lowest relative to the market's fluid needs. The months of March through July were designated as the flush milk production months under the cooperative's proposal. DI suggested that September through January be considered as the short milk production season and that February through August be recognized as the flush milk production season.

Market data indicate that the period of September through January generally is the time when milk supplies are shortest relative to the fluid needs of the proposed Alabama-West Florida market. On the other hand, the months of February through August are the months when milk supplies for this market are more adequate to meet the fluid needs of distributing plants.

Based on a statistical summary of data compiled by the Alabama Dairy Commission for a recent 4-year period (1976–79), average monthly Class I sales as a percent of the total supply available to Alabama processors ranged from 91 percent in November to 87 percent in July. The Class I percentage so computed was above 90 percent in each of the months of September through January except in December. The relationship between supplies and sales is somewhat unique in the month of December when, due to school closings and the holidays, the demand for milk falls off sharply in the latter part of the month. However, in view of the relatively higher fluid demand during the first two-thirds of the month, it is appropriate to include December with the months of September, October, November and January as months when production is relatively short to meet the fluid needs of this market.

In each of the other seven months of February through August, the monthly average Class I sales as a percent of producer supply available to Alabama processors was in the upper 80's. Although the sales-supply situation in these months has been in fairly good balance, these are the months when milk supplies have been more adquate to meet the proposed market's fluid needs. Moreover, it should be noted that the data from which these utilization percentages were computed do not include all of the milk that would be diverted to nonfluid uses in these months. Thus, the actual utilization levels under a Federal order likely will be lower.

The months of September through January are adopted as the market's short milk production season. In that regard, greater shipments by supply

plants will be required and individual producers will have to "touch base" more often during these months under the proposed order. In addition, on the basis of their deliveries in such 5-month period, producers will establish their bases under the base-excess plan adopted in this decision.

On the other hand, the months of February through August will be adopted as the flush milk production period for this market. Accordingly, fewer shipments will be required by supply plants and individual producers will not have to "touch-base" as often during these months. In addition, producers will receive their payments on the basis of their base and excess milk deliveries during part of this period.

With respect to its modified proposal to impose Class I utilization standards, DI urged that to qualify as a pool plant not less than 70 percent of certain specified receipts at the distributing plant or supply plant in each of the months of September through January and not less than 50 percent during each of the months of February through August be assigned to Class I milk. Under this modification, a monthly Class I use standard for distributing plants would be used in lieu of the total route disposition standard suggested by the order proponent.

A spokesman for DI contended that monthly Class I use standards for distributing plants and supply plants are needed to assure that the milk pooled under this order is closely associated with the market's fluid milk needs. Based on the statistical data of the Alabama Dairy Commission, the DI witness testified that its proposal would allow an individual plant to have a Class I utilization at least 15 percentage points below the market's average Class I use during the September–January period. During the months of February through August, the proposal by DI would allow an individual plant's Class I use to be about 25 percentage points below the market's average Class I utilization and maintain pool status for such plant. In DI's view, these monthly minimum Class I requirements on distributing plants and supply plants, which would vary seasonally, are reasonable in view of marketing conditions in the proposed area, even though they would be well under average levels of Class I use.

Southern Milk Sales (SMS) supported DI's proposal to impose a Class I utilization standard on supply plants. A spokesman for the association contended that the Class I requirement is needed to insure that milk delivered to a supply plant by producers associated with the proposed market will be made available to pool distributing plants for their bottling requirements. He further testified that the integrity of the blend price thus would be protected for producers closely associated with the market's Class I sales.

In its brief, AMP stated its opposition to DI's proposal to impose Class I utilization standards on distributing plants and supply plants. In that regard, the cooperative supported its position on performance standards for such pool plants as stated at the hearing. AMP's brief stated its view that its pooling proposals were adequate to demonstrate a plant's association with the marketing area to such an extent that it should be a pool plant. Also, Draft, Inc., in its brief opposed DI's pooling proposal on the basis that it would exclude available milk supplies from participation in the marketwide pool.

There is no basis on this record to conclude that the standards for pooling distributing plants and supply plants in the proposed market require the imposition of Class I utilization standards. There is no indication that handlers who will be regulated under the Alabama-West Florida order are likely to experience problems in obtaining adequate supplies of milk for fluid purposes because milk is being used instead for manufacturing uses elsewhere.

DI offered considerable testimony on why the Alabama-West Florida order should accommodate only the pooling of enough milk to meet the proposed market's Class I needs, including reserves to accommodate the daily, weekly, and seasonal variations in supply and demand. DI's contention was that this is what the Act contemplates, and that it indeed has been the Department's policy in that regard.

The Act provides no basis for concluding that a Federal order should restrict the absolute volume of Grade A milk that is pooled. What is intended is to provide regulations to ensure that the market's fluid milk needs will be met under marketing conditions characterized by orderliness and stability. To that end, the order should provide certain performance standards for identifying plants and producers who participate in meeting the fluid milk needs of the market to a degree that warrants being included in the marketwide pool. However, those performance standards should not preclude from pool status additional supplies of milk that may in the future become associated with the fluid milk needs of the Alabama-West Florida market.

In connection with its proposal to impose a Class I utilization requirement on supply plants, DI proposed that milk transferred from a supply plant to another pool plant be classified on a pro rata basis with all other pool receipts at such plant. Since this decision denies the proposal to impose a Class I utilization requirement on supply plants, it is not necessary to further consider this corollary proposal.

In response to DI's proposed modification to impose a Class I utilization standard on distributing plants, a handler operating a fluid milk processing plant at Gadsden, Alabama, proposed that two or more distributing plants of the same handler be permitted to combine their dispositions into a single unit for the purpose of meeting the Class I utilization percentage requirement proposed by DI. The handler's spokesman contended that, if DI's proposal is adopted, the Gadsden plant may not qualify as a pool plant because by-products are made at that plant for distribution by its other fluid milk processing plants in Alabama.

In its brief, the handler took the position that its unit pooling proposal should be considered only if DI's proposed Class I utilization standards are adopted. Since this decision denies the proposal to impose a Class I utilization requirement on distributing plants, it is not necessary to further consider this handler proposal.

To qualify as a pool plant under the proposed Alabama-West Florida order, a distributing plant would be required to meet performance standards related to the proportion of its receipts used in route disposition, including such disposition in the marketing area. Pool distributing plants would include only those plants substantially engaged in the distribution of fluid milk products. In this connection, a pool distributing plant's total route disposition each month, both inside and outside the marketing area, should not be less than 50 percent of its receipts from all sources of Grade A fluid milk products that are physically received at such plant or diverted from the plant to nonpool plants. The route disposition of such a plant in the marketing area must also be at least the lesser of a daily average of 1,500 pounds or 10 percent of such receipts.

The standards for pooling a distributing plant are similar to those proposed by the proponent cooperative. Based on the record of marketing conditions in the proposed marketing area, the 50 percent route disposition requirement herein provided should be appropriate. Any plant which has a

majority of its business as route disposition of fluid milk products should be considered as a pool distributing plant under the new order. The 50 percent route disposition standard is commonly used throughout the Federal milk order program to determine whether a plant is primarily involved in processing and distributing fluid milk products.

AMP's proposed in-area route disposition requirement was intended to assure that a large plant with substantial sales in the marketing area would be fully regulated. For example, assume that a distributing plant had 5 million pounds of Grade A milk receipts and route dispositions of 300,000 pounds per month (6 percent of receipts) in the marketing area. If the only in-area measure of performance for pool plant status is the 10 percent requirement, the plant would be a partially regulated distributing plant. Nevertheless, 300,000 pounds of route dispositions could represent a major portion of the total Class I sales within a small portion of the marketing area. For this reason, AMP proposed that any plant having route disposition in the marketing area averaging 1,500 pounds per day (45,000 pounds per month) should be fully regulated under the order. The AMP witness indicated that the plant at Tupelo, Mississippi, could be in a position to operate in the manner described above.

The in-area pool plant standard proposed by AMP is a reasonable pooling standard and should be adopted. Accordingly, a distributing plant with at least the lesser of a daily average of 1,500 pounds or 10 percent of its receipts disposed of on routes in the marketing area would be a pool plant unless the plant also qualifies as a pool plant under another Federal order and the plant has a larger volume of route disposition in the marketing area of such other order. This standard will provide a reasonable indication of when a distributing plant is associated with this market to the extent that warrants its full regulation under the order.

The record indicates that the 21 distributing plants that would most likely qualify as pool plants under the Alabama-West Florida order would have no difficulty in meeting either the total route disposition standard or the in-area route disposition standard adopted herein.

A supply plant should qualify for pool status by transferring a certain percentage of its total receipts from dairy farmers to pool distributing plants. As provided herein, the supply plant's total receipts would include deliveries to the plant by its own producers and by a cooperative as a bulk tank handler. In addition, producer milk diverted from a supply plant would be included in the plant's total receipts from dairy farmers and, conversely, milk diverted to such plant from another order plant would be excluded from such plant's total receipts for the purpose of determining whether the supply plant qualifies as a pool plant. The reasons for such inclusions and exclusions in a supply plant's total receipts have been discussed previously with respect to this issue and need not be repeated here.

AMP proposed a shipping requirement of 50 percent for supply plants. The cooperative's proposal also would provide automatic pool plant status for a supply plant in the months of March through July if such plant qualified as a pool supply plant for this market in each of the immediately preceding months of August through February.

A witness for DI testified that the order proponent's suggested performance standards for a supply plant would allow such a plant to have a Class I utilization as low as 25 percent and remain pooled. He contended that in an area where the annual average Class I use has been almost 90 percent, a performance standard that would allow a plant to have Class I utilization as low as 25 percent is inappropriate when the objective of the act is to obtain milk for fluid use.

The witness for Dairymen, Inc., testified that he did not believe there was a need for either a supply plant definition in the order or the operation of such plants for this market. This was premised on the belief that the proposed market can be supplied on a direct-delivered basis. He contended that because of this supply plants are an inefficient method of supplying milk to the market.

However, since Federal orders allow handlers to buy their milk supply from whomever they wish, there could be occasions when a milk supply is obtained at sufficient distance from the market center to make it practical for milk to be handled through a supply plant. In recognition of this and in view of the proposed market's anticipated supply-demand conditions, DI proposed seasonally varying monthly shipping requirements for supply plants. Under the DI proposal, a supply plant would be required to ship at least 70 percent of its total receipts from dairy farmers to pool distributing plants during each of the months of September through January and 50 percent of such receipts in each of the other months.

Southern Milk Sales supported DI's higher shipping standards for supply plants for the same reasons that it supported the imposition of Class I utilization standards on such plants proposed by DI. The reasons given by the cooperative for supporting the more stringent pooling standards have been noted in previous findings under this same issue.

Although Kraft, Inc., does not operate a plant that likely would be fully regulated under the Alabama-West Florida order, a brief was filed by Kraft as an interested party. Kraft operates an other order plant that has route disposition in the Alabama-West Florida marketing area and also operates manufacturing facilities that receive milk supplies that are excess to the market's fluid needs. The handler took the position that the proposed supply plant provisions were deficient because a supply plant operator would not get credit for movements directly from the farms of producers as qualifying shipments to distributing plants in addition to transfers to such plants from the supply plant.

There is no basis on this record to adopt the provision described by Kraft. No specific proposal was advanced to cover this issue and the problems that Kraft envisioned with respect to the order's supply plant provisions were not explored on this record.

Kraft also requested in its brief that official notice be taken of two Department of Agriculture publications that predict a steady conversion from manufacturing grade production to Grade A production. The request for official notice is denied. The brief fails to indicate any relevancy of that material to any issue on which hearing evidence was received in this proceeding. Therefore, there is no purpose to be served by taking official notice of the requested USDA publications.

As envisioned for this area, a supply plant would be a plant that is lcoated some distance from the consumption centers and that performs the traditional function of assembling milk and supplying distributing plants with supplemental milk supplies on heavy bottling days. Because of its distance from the market center, this type of plant would find it more efficient to receive milk from the farm at the plant and then transfer it into larger over-the-road tank trucks for transshipment to distributing plants. Accordingly, a "supply plant" should be defined on a functional basis, i.e., transferring fluid milk products to pool distributing plants.

At the time of the hearing the Alabama-West Florida market was not being served by any plant that specializes in the collection of milk for

cooling and transshipment to a distributing plant to such an entent that it would qualify for pool status on this basis. In fact, most markets today do not have such plants, which have generally lost their usefulness with the advent of farm bulk tanks, refrigerated trucks, and a modern highway system. Nevertheless, supply plants have continued to be associated with some Federal order markets.

Since not enough milk is produced in the marketing area to furnish the fluid milk needs of handlers, it is necessary to import milk regularly from sources beyond such area. Hence, specific pooling standards for supply plants need to be included in the order in the event such a plant in the future should supply milk for this market to such an extent that it should particiapte in the marketwide pool.

Under the standards adopted herein, a supply plant would be required to transfer 70 percent of its total receipts from dairy farmers to pool distributing plants in each of the months of September through January and 50 percent of such receipts in each of the other months to qualify as a pool plant. These shipping standards were proposed by DI and supported by SMS.

Given the anticipated high Class I utilization in this market, the order should not provide, as the order proponent suggested, for automatic pool plant status for supply plants during the months of seasonally higher milk production. The fluid requirements of distributing plants in this market are such that supply plants, when relied upon for milk, should be required each month to transfer certain percentages of their receipts to distributing plants to participate in the order's marketwide pool. Supply plants likely would need to ship milk to distributing plants in this market even during the months when production tends to be heavier, because during the days of peak bottling demand all of the milk supply available for this market will be needed to funish the needs of distributing plants. For this reason, a supply plant's requirements for pool status should apply on a year-round basis.

Pooling milk through a supply plant may not be the most efficient way to pool milk in this market. Since the record indicates that this market essentially is supplied on a direct-delivery basis, the order's pooling provisions should be so structured that a handler will not have an incentive to pool milk through a supply plant when the milk can move more efficiently to a distributing plant directly from the farm. Requiring a supply plant to qualify on the basis of shipments each month during the year will serve that purpose.

As indicated, it is reasonable under the market conditions to require a supply plant to deliver at least 70 percent of its receipts from dairy farmers to pool distributing plants during the months when milk supplies tend to be shortest relative to the market's fluid needs. However, a lower shipping percentage (50 percent) for supply plants should apply in each of the months of February through August when milk production is seasonally higher. In these latter months, a smaller proportion of a supply plant's total receipts from producers may be needed at pool distributing plants if their Class I sales remain relatively constant. Furthermore, Class I utilization declines at some pool distributing plants during the summer months when schools are not in session. Accordingly, in the months of heavier milk production, a lower shipping requirement for supply plants is appropriate.

In discussing the pooling issue at the hearing, a witness for Dairymen, Inc., testified that under AMP's proposed shipping standard for supply plants the DI plant at Lewisburg, Tennessee, would have qualified as a pool supply plant in certain past months on the basis of shipments to distributing plants that would be regulated under the new Alabama-West Florida order. Since significant quantities of milk have been shipped from the Lewisburg plant to Alabama distributing plants from time to time, and because the Alabama market is the primary recipient of supplemental shipments from such plant, he contended that the Lewisburg plant should be regulated under the proposed Alabama-West Florida order.

To accommodate this situation, DI modified its hearing notice proposal for a supply plant operated by a cooperative and proposed that a cooperative be permitted to pool a balancing plant, upon request, if the accociation delivers 60 percent or more of its member producer milk to pool distributing plants during the month. The 60 percent delivery requirement could be met by deliveries directly from the farm and or by transfers from the association's plant under the cooperative's proposal.

Two other cooperatives supplying the market (AMP and SMS) opposed the DI proposal essentially for the same reason, i.e., it would allow, in their opinion, the cooperative to "ride" the pool by associating unneeded supplies of milk with the marketwide pool, thereby depressing the order's uniform prices. Thus, in their view, to the extent that the adoption of a balancing plant provision would permit DI to do this, the returns to the member-producers of these two cooperatives would be reduced.

The record indicates that cooperatives have been balancing milk supplies for this market. An exhibit comparing the proponent cooperative's deliveries to fluid milk processors who have independent producers with the association's deliveries to such processors without independent producers shows that the variation in the average daily delivery by AMP to processors with independent producers was almost three times as great as it was for deliveries to processors without independent producers. For example, during September 1978–August 1979, the averge daily deliveries by AMP to processors without independent producers ranged from a low of 91 percent of the annual average in July to a high of 104 percent of such average in April (a difference of 13 percentage points). On the other hand, during that same period, the cooperative's average daily deliveries to fluid milk processors with independent producers ranged from a low of 81 percent of the annual average in June and July to a high of 117 percent in October (a difference of 36 percentage points).

A greater variation in deliveries to a distributing plan twas experienced by AMP if such plant had its own producers. This resulted because as the plant's own producers increase their production, less milk is needed from the cooperative. When the cooperative's milk is displaced like this by milk from the plant's own producers, oftentimes the cooperative's displaced milk must be hauled long distances to a manufacturing plant at the expense of the association. Conversely, when the production of a plant's own producers decreases, the cooperative is called on to supply more milk. If the cooperative is short of milk overall in supplying its customers at this time, it may be necessary for the cooperative to import milk from beyond the local supply area to fulfill the fluid needs of handlers, which also can be costly to the cooperative.

The Lewisburg plant is a large manufacturing plant that receives substantial volumes of milk that are excess to the fluid milk needs of other Federal order markets throughout the Southeastern United States. It has the capacity to handle about 900,000 pounds of milk per day. Although considerable milk is transferred from the plant to fluid milk outlets during certain months of the year, the plant is primarily

engaged in manufacturing butter and nonfat dry milk.

The Lewisburg plant is a fully regulated pool plant under the Nashville order, qualifying as a cooperative balancing plant. Unlike the Alabama situation, very few if any shipments from the Lewisburg plant are made to distributing plants regulated under the Nashville order. A significant portion of the receipts at such plant are diversions off of other Federal order markets in the Southeast. In such cases, the diverted milk may be considered producer milk under the other order rather than a direct receipt of producer milk at the Lewisburg plant under the Nashville order.

The new Alabama-West Florida order should accommodate the pooling of the Lewisburg plant as a cooperative balancing plant. Although the Lewisburg plant is located in a major part of this market's procurement area, it oftentimes may be more economical to move the milk directly from the farm to an Alabama distributing plant than it is to haul the milk to Lewisburg, recieve it there at the cooperative's plant solely for the purposes of qualifying the plant, reload it and then haul it to a distributing plant, which in some cases is closer to where the milk was produced. However, when milk of some producers is temporarily not needed at distributing plants, their milk could maintain pool status by being delivered from the farm directly to the balancing plant, since it would be a pool plant. The plant thus would be an assured outlet for reserve milk without involving arrangements under which the producers' milk would need to be diverted from distributing plants to maintain producer milk status under the order. Affording pool status to the balancing plant also would facilitate the transfer of milk from the cooperative's balancing plant to pool distributing plants.

Although milk should be moved when possible directly from the farm to distributing plants, there are occasions when balancing plants are called upon to make supplemental shipments. Such shipments, however, often may not be in sufficient amounts to qualify the plant as a supply plant. Nevertheless, the plant should qualify for pooling as long as the cooperative has demonstrated an adequate degree of supply performance for the market as a whole.

The cooperative should be permitted to move the milk in the least costly manner (either directly from the farm and/or by transfer from its balancing plant). In certain cases, this could result in significant savings to the cooperative in plant handling and transportation costs. In view of this, the cooperative's deliveries from the farm and/or transfers from the plant should count as qualifying shipments in determining whether a balancing plant meets the minimum delivery requirement. This will provide maximum flexibility to the cooperative in moving its milk supplies to customers.

It is necessary that there be a reasonable demonstration that the milk pooled through balancing plants is a part of the regular market supply. Milk should not be permitted to the associated with the market merely for manufacturing purposes since this would reduce returns to producers and discourage the production of an adequate supply of milk by those producers regularly supplying the fluid market. A balancing plant's pool status should be contingent on its function with respect to the milk supply for the fluid market and this is reasonably reflected in how much of the cooperative's total member producer milk is delivered to pool distributing plants.

The record indicates that, on a year-round basis, 80 percent or more of DI's member producer milk under the proposed order would be delivered to distributing plants that will be regulated under the new Alabama-West Florida order. Based on marketing conditions, at least 70 percent of the producer milk of member producers should be delivered each month to pool distributing plants to qualify a cooperative's balancing plant for pooling without requiring that plant to separately meet the shipping requirements of a pool supply plant. This will assure a substantial association of the cooperative's total producer milk supply with the market's fluid use and will minimize the opportunity for any cooperative to pool unneeded milk through the balancing plant.

As DI suggested, the pooling of the cooperative's balancing plant on a request basis would be conditioned on such plant's not qualifying as a pool distributing plant or a pool supply plant under this or any other Federal order. If a balancing plant meets the performance requirements as a distributing plant or a supply plant under this or any other Federal order, there would be no reason to request status for such a plant under this order as a pool balancing plant. Also, the balancing plant must maintain approval by a duly consituted regulatory agency to handle Grade A milk. Such a provision is necessary to assure that the plant can be depended upon for supplemental supplies when they are needed by distributing plants. Since the Alabama-West Florida order as adopted herein would not require any minimum shipments to the market from a cooperative's balancing plant, it is conceivable that the plant might not take the necessry steps to maintain its health approval, thereby precluding the plant from being able to transfer milk from the balancing plant to pool distributing plants.

The performance standards adopted herein for the various types of pool plants should be adequate to insure that the milk pooled under the Alabama-West Florida order is associated with the market's fluid use. They are sufficient to prevent the development of Grade A milk supplies and the association of such supplies with the order solely for the purpose of obtaining milk for other than Class I use. The provisions are adequate considering the proposed market's Class I needs and the historical utilization of producer milk in such area.

Certain plants should be excluded from "pool plant" status even though they meet the pooling standards of the order. For instance, a distributing plant possibly could meet the pooling requirements of this order and also another Federal order in the same month. Such a situation could develop in particular between this order and the New Orleans-Mississippi order (Order 94) because the low minimum in-area sales requirement (1500 pounds per day on routes) adopted herein is also provided for in the adjoining New Orleans-Mississippi market. Complentary provisions between the two orders should provide administrative guidance to resolve conflicts regarding regulation of a plant that qualifies for pooling under both Federal orders.

A distributing plant that has route disposition in both marketing areas should be regulated in the market in which such plant has the greater route sales. However, if a plant that has been regulated under this order should have greater route disposition in another markting area, the plant should retain pool plant status under this order until the third consecutive month in which it has greater route disposition in the other marketing area. This procedure would limit the casual, disruptive shifting between orders on a month-by-month basis that can occur when intermarket distribution results in qualifying a distrubting plant for pool status under more than one order.

Similarly, the new order should recognize that lock-in provisions for distributing plants also are provided under other orders. In that regard, a complementary provision is adopted in the new order to allow a distributing

plant to continue to be regulated under the other Federal order even though it has greater route sales in the Alabama-West Florida marketing area. In this situation, a distributing plant in Order 94, for example, would retain its pool status under Order 94 until the third consecutive month its route disposition in this marketing area was greater than in the Order 94 marketing area.

A supply plant that meets the shipping requirements of this order and another Federal order but which has greater shipments to distributing plants regulated under the other order should be pooled under the other order. Also, a supply plant pooled under another Federal order on the basis of its automatic pool plant status would not be a pool supply plant under the Alabama-West Florida order even if such plant met the shipping requirement under this order.

In addition, certain types of plant operations that are exempt from the pooling provisions of the order should be specifically excluded from the order's pool plant definition. In that regard, the term "pool plant" shall not apply to a producer-handler's plant or a governmental agency plant.

Nonpool plant. The new order should include a definition of "nonpool plant." Under the order, a nonpool plant would mean any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The "nonpool plant" definition sets forth five specific categories of plants that cannot be pool plants under the order. They are adopted essentially as proposed by the order proponent.

A definition of "nonpool plant" is provided in the new order to facilitate the formulation of the various order provisions as they apply to such a plant. The various types of nonpool plants are described further hereinafter.

An "other order plant" would be a plant that is fully regulated under another Federal order. As such, it cannot be a pool plant under this order.

A plant operated by a "producer-handler", as defined in this or any other Federal order, would be considered a nonpool plant. Due to the nature of the operation, as discussed later, such a plant is specifically exempt from pool status.

A "partially regulated distributing plant" also would be considered a nonpool plant. A partially regulated distributing plant would be a distributing plant that does not qualify as a pool distributing plant, an other order plant, a producer-handler plant, or a governmental agency plant. Generally, such a plant would be a distributing plant that has route disposition in the defined marketing area, but not to an extent that would qualify it for pool status under the order.

An "unregulated supply plant" means a supply plant that does not qualify as a pool supply plant, an other order plant, a producer-handler plant, or a governmental agency plant. In essence, it is a plant that transfers milk to pool distributing plants, but not to an extent that would qualify it for pool status under the order (less than the specified percentage of its receipts from dairy farmers is transferred to pool distributing plants).

As suggested by the order proponent and adopted herein, a distributing plant operated by a governmental agency (Federal, state, or local) would also be included among the nonpool plants specified in the order.

The proponent's witness testified that he was not aware of any distributing plant operated by a governmental agency which would qualify for exempt status under the new order. However, he indicated that such a self-contained operation which runs its own dairy farm, processing plant, and distributes such milk at a plant store or on a college campus should not be fully regulated under the order. He further testified that such an operation would not be a competitive factor in the overall market and for this reason should not be pooled. Accordingly, as suggested, the order should recognize the possibility of such operations in the future by extending nonpool plant status to them.

Handler. The impact of regulation under an order is primarily on handlers. A handler definition is necessary to identify those persons from whom the market administrator must receive reports, or who have financial responsibility for payment for milk in accordance with its classified use value. As herein provided, the following persons are defined as handlers under the order:

(1) The operator of one or more pool plants;

(2) A cooperative association with respect to producer milk that is picked up at the farm and delivered to a nonpool plant as diverted milk for the cooperative's account;

(3) A cooperative association with respect to milk of a producer that is picked up at the farm and delivered to a pool plant of another handler for the cooperative's account;

(4) The operator of a partially regulated distributing plant;

(5) A producer-handler;

(6) The operator of an other order plant from which milk is disposed of in the area; and

(7) The operator of an unregulated supply plant.

All of the categories of handlers listed above, with the exception of the operator of an unregulated supply plant were proposed by the order proponent and are common to most milk orders. Each person who may have a reporting requirement or may incur a financial obligation under the order should be designated a handler. This will assure that all information necessary to determine a person's status under the order can be readily determined by the market administrator. For this reason, the operator of an unregulated supply plant and the other persons listed above should be defined as handlers under the new order.

A pool plant operator who receives milk from producers should be the responsible handler for such milk. As the responsible handler, such person should report, in the detail prescribed by the market administrator, the quantities of milk received from each producer and each other source. Such operator also should be responsible for reporting certain other information deemed necessary by the market administrator in order to determine the utilization of producer milk. Such handlers should be responsible for making payments to producers, cooperative associations and the producer-settlement fund in accordance with the terms of the order.

A cooperative association should be a handler under the order for farm bulk tank milk moved by the cooperative to a pool plant or diverted to a nonpool plant. In the case of such movements to a pool plant, a cooperative should be the handler for milk received for its account from the farm of a producer that is delivered to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative. However, should there be a mutual agreement between the cooperative and the pool plant operator whereby such operator agrees to be the handler for the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the cooperative need not be the handler for such milk.

Requiring a cooperative to be the handler on milk picked up for its account at the farm of a producer and delivered to a pool plant provides a practicable basis for the complete accounting of such milk. It also recognizes the current handling arrangements used by the cooperatives operating in the market in allocating their milk among distributing plants.

A witness for the order proponent testified that some plants which would be fully regulated by the proposed order buy their milk supply from the cooperative on the basis of weights and tests taken at the farm by the association. In such circumstances, it is only the cooperative that has the opportunity to measure and sample the milk of individual producers that is received at a plant. In the absence of any agreement by the plant operator to be the handler on such milk, the cooperative must be the responsible handler for the milk as it leaves the farm.

Under the terms of the attached order, the pool plant operator's obligation on milk purchased from a cooperative as a "bulk tank handler" is the same as for producer milk received directly from the farm of an individual producer. The plant operator must account to the pool for the milk according to the classification assigned to the milk based on the plant's utilization. The pool plant operator in turn settles with the cooperative on the basis of the uniform price for the milk. Under this arrangement, the pool plant operator is obligated to the producer-settlement fund, the administrative fund and the cooperative on the quantity of milk the cooperative delivers to such handler's pool plant directly from the farms of producers. The cooperative, in turn, is obligated to the producer-settlement fund and administrative fund on only that portion of milk picked up for its account that exceeds the quantity delivered to pool plants.

This accounting and payment procedure for bulk tank milk received from a cooperative will simplify the accounting for such milk by the pool plant operator. It will facilitate the administration of the order with respect to such items as financial responsibility, enforcement, and subsequent audit adjustments that may arise. Since the actual use of milk reflects the receiving pool plant's operation, it is reasonable that the responsibility for the accounting and payment of such milk placed directly on such pool plant operator.

The attached order also provides that a cooperative could be a handler on the milk of a producer which it diverts for its account from a pool plant to a nonpool plant. This handling arrangement will facilitate the movement of milk not needed for fluid use to nonpool plants for manufacturing. It also will assist the principal cooperatives in balancing supplies among the several distributing plants serving the market.

Under this handling arrangement, the diverting cooperative would be obligated to the producer-settlement and administrative expense funds on the diverted milk. Conversely, the operator of the nonpool plant that received the milk from the diverting cooperative would not incur an obligation on such milk under the order.

The new order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants or dispose of reserve supplies. If it so chooses, a cooperative should be able to pick up the milk of nonmember producers along with the milk of members for delivery to a pool plant or diversion to a nonpool plant. This procedure will enable the cooperative to act as the marketing agent for a nonmember producer who has contracted with the cooperative to market his or her milk. Nothing in the order would require a cooperative to pick up the milk of nonmenber producers. It would provide, however, that when a cooperative does pick up milk of nonmember producers on trucks under its control, it must assume varying degrees of responsibility with respect to such milk, depending on the handling arrangements made.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. With the adopted handler definition, the new order would be consistent with that provision of the Capper-Volstead Act which recognizes that cooperatives "may deal in the products of nonmembers" and which limits such dealings to amounts not greater in value than those "handled by it for members."

Producer-handler. The order should exempt "producer-handlers" from the pricing and pooling provisions of the order.

Experience under Federal orders has demonstrated that effective regulation can be insured without the full regulation of individuals who essentially process and distribute milk produced on their own farm and who buy no milk from other dairy farmers. Such operations are basically self-sufficient in that they rely primarily on their own farm production and assume the burden of maintaining the necessary reserve supply of milk associated with their fluid milk operation and of disposing of any daily or seasonal surpluses they may produce. Because of the costs associated with producing all of the milk needed for their fluid sales and handling the reserve supplies, producer-handlers seldom are able to gain any competitive edge in the marketplace by virtue of their exempt status.

Although the specific order language adopted with respect to producer-handlers differs somewhat from what the order proponent suggested, the basic intentions of the cooperatives are accommodated under the provisions adopted herein.

As proposed by the order proponent and adopted herein, a "producer-handler" would be any person who operates a dairy farm and a distributing plant from which there is route disposition in the marketing area. Such persons would be permitted to supplement milk production on their own farms with purchases from pool plants and plants fully regulated under other Federal orders. A producer-handler operation would lose its exempt status by disposing of milk from other sources in a fluid milk product (other than by the fortification process). Such person also must satisfy the market administrator that the management and operation of the dairy farm and processing plant are at the personal risk of the producer-handler.

A question was raised at the hearing in connection with the cooperative's proposal to permit a producer-handler to buy unlimited quantities of fluid milk products from pool plants. It is intended that producer-handlers not have a significant advantage over fully regulated handlers when they are permitted to purchase supplemental milk. Since the milk transferred from a pool plant to a producer-handler would be accounted for under the order as a Class I disposition of the pool plant, no significant advantage would result for the producer-handler. Nevertheless, the principal basis for excluding producer-handler operations is that they are primarily self-sufficient, i.e., they bottle and distribute essentially their own milk production. Thus, it is anticipated that supplemental purchases would be relatively small.

The record indicates that there are only two operations that would qualify as producer-handlers under the proposed order. One is located in the Huntsville, Alabama, area and another is in the Dothan, Alabama, area. Both were described as relatively small operations. There is no indication as to whether these operations obtain supplemental supplies from other sources. While there is no basis in this record for limiting supplemental purchases, the matter can be reviewed later in light of actual operating experience under the order.

There was considerable discussion at the hearing about whether a producer-handler also should be permitted to buy supplemental milk from pool plants

regulated under other orders. A witness for the order proponent testified that he did not believe a producer-handler could gain a competitive advantage over other pool plant operators on such purchases, since the milk would have to be accounted for at the Class I price under the other order and transportation costs would have to be added. The cooperative preferred, however, to limit supplemental milk purchases by producer-handlers to pool plants regulated under this order because such purchases would enhance this market's uniform price. However, because no competitive advantage can be obtained when a producer-handler buys fluid milk products from plants regulated under other Federal orders, it is provided herein that supplemental purchases by producer-handlers may be made from pool plants under this order and from plants fully regulated under other Federal orders.

A producer handler's exempt status would be conditioned on certain other methods of operation by such a person. For instance, such a handler would not be permitted to reconstitute or convert milk products into fluid milk products have a surplus value and, if such activities were permitted, would place the producer-handler at a significant competitive advantage over regulated handlers in terms of product costs. This would not, however, prevent a producer-handler from buying Class II and Class III milk products from any source for distribution in the same form along with such handler's fluid milk products. Nor would it prevent a producer-handler from increasing the nonfat milk solids content of the milk produced on such person's own farm or purchased from pool plants by fortifying a fluid milk product.

A producer-handler's status also would be contingent on such person proving to the market administrator that the operation of the dairy farm and processing plant in question are at his/her risk. An exemption from the pooling and pricing provisions for such a person is based upon the basic self-sufficiency of the total operation. Accordingly, no other person should be permitted to share the risk involved with the operation of a producer-handler's farm or plant. All resources necessary and incidental to his/her own farm production of milk must be his/her personal risk. Similarly, all risk associated with the operation of the processing plant must be that of the producer-handler.

Producer. The term "producer" defines those dairy farmers who constitute the regular source of supply for the market. The producer definition adopted herein follows closely the one proposed and supported by the order proponent.

Producer status under the order should be provided for any dairy farmer who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is received at a pool plant directly from the producer's farm or is picked up at the farm by a cooperative as a bulk tank milk handler for delivery to a pool plant. Producer status also should be accorded to a dairy farmer who has an established association with the market and whose milk is diverted from a pool plant to a nonpool plant by a cooperative association or a pool plant operator, either for fluid use or for surplus disposal.

To establish a producer's association with the market and to insure the marketability of such producer's milk, it is reasonable to require that a dairy farmer's milk be received at a pool plant each month to qualify such dairy farmer's milk for diversion to a nonpool plant. The "touch base" requirement is discussed more fully in the findings dealing with the definition of producer milk under the new Alabama-West Florida order.

The order would provide an exemption for producer-handler operations and for plants operated by a governmental agency. Since these operations are exempt from the order's pricing and pooling provisions, milk which is excess to the needs of such operators should not be treated as producer milk when it is moved directly from the farms of such operators to a pool plant. Accordingly, the producer definition adopted herein would specifically exclude producer-handlers and governmental agency plants. Any such milk delivered to a pool plant from such operations would be other source milk.

In addition, provision must be made to preclude the possibility of a dairy farmer being a producer under two orders with respect to the same milk. In this regard, the producer definition should exclude a dairy farmer with respect to milk which is received at a pool plant under this order by diversion from a pool plant under another order if the dairy farmer is a producer under the other order with respect to such milk and the milk is allocated to Class II or Class III use under this order. Also, the definition should exclude a dairy farmer with respect to milk which is diverted to a pool plant under another order from a pool plant under this order if any portion of such person's milk is assigned to Class I milk under the other order.

Producer milk. The "producer milk" definition is intended to define the milk that would be priced and pooled under the order. The definition adopted herein contains the basic features suggested by the order proponent.

"Producer milk" would include milk of a producer that is (1) received at a pool plant directly from such producer by the operator of the plant; (2) received by a cooperative association acting as a bulk tank handler; or (3) diverted by a cooperative association or a pool plant operator from a pool plant to a nonpool plant that is not a producer-handler plant.

When milk is not needed at a pool plant, it usually is diverted to a nonpool plant where it is used to produce manufactured milk products. Hence, the order should provide for "diversions" to nonpool plants by pool plant operators and cooperative associations within certain specified limits to insure that the pool distributing plants in the market are adequately supplied first. With respect to the limitations on such movements, a portion of an individual producer's milk would have to be received at a pool plant each month to qualify the producer's milk for diversion to nonpool plants during the month. In addition, handlers (pool plant operators and cooperative associations) would be limited in the total quantity they may so divert each month.

The order proponent suggested that pool plant operators and cooperative associations be permitted to divert an amount equal to one-third of the producer milk physically received at pool plants during the months of seasonally short milk production. In support of the proposal, the proponent's witness testified that the proposed diversion allowance would be adequate to accommodate the surplus disposition requirements of handlers supplying milk for the market. He also indicated that his producer group would rarely if ever need to divert as much as 25 to 30 percent of its milk supply in any month.

Proponent further suggested that 2 days' production of each producer should be received at a pool plant during each of the flush producton months of March through July to qualify such producer's milk for diversions to a nonpool plant during each such month. During each of the months of August through February, proponent suggested that the requirement be 6 days' production.

The witness for proponent testified that these are minimum requirements and he would not be opposed to higher "touch-base" requirements for individual producers. He also stated that

based on his knowledge of supply-demand conditions which exist in the general area, the milk of all producers will be needed more than half of the time to supply the fluid milk requirements of the market's distributing plants. He further testified that insuring the delivery of the minimum days' production of each producer's milk to pool plants each month would not result in additional transportation costs for the cooperative.

DI proposed a "touch base" requirement for each individual producer of 4 days' production in each of the months of February through August and 10 days' production in each of the other months of September through January. In support of its higher delivery requirements to pool plants by individual producers, a witness for DI testified that if producers are a regular part of the necessary reserve suppy for this market, it would result in little, if any, additional transportation costs to deliver the minimum number of days' production of each producer's mik to pool plants each month. He contended that when milk supplies not closely associated with the market's fluid milk needs become attached to the market it is costly to the cooperative in terms of a reduced blend price. The DI witness stated that the cooperative will most likely have to ship production of 20 or more days of each producer's milk to pool plants during the months of September through January to furnish the fluid milk requirements of its pool distributing plant customers.

An independent producer proposed that at least one-half of an individual producer's milk should be required to be received at a pool plant each month to qualify such dairy farmer's milk for diversion to nonpool plants. He testified that, in his judgment, the proposed touch-base requirement of 2 days' production (one delivery for producers on every-other-day delivery) was inadequate. He contended that higher delivery requirements would be in his best interest in addition to the best interests of other Alabama producers.

In its post hearing brief, the order proponent (AMP) supported the DI touch-base requirements of 4 and 10 days' production for individual producers. Both cooperatives also repeated their contention that these requirements would not result in additional hauling costs to their associations because more than the minimum number of days' production for each individual producer would be received at pool plants.

Southern Milk Sales, Inc., in its brief urged that the touch-base requirements be 70 percent of a producer's milk (21 days' production) in the fall months and at least 50 percent (15 days' production) in the spring months to protect the integrity of the blend price and to assure consumers an adequate supply of milk to meet their needs.

The limits on total diversions of producer milk to nonpool plants by a handler should be established at a rate that will accommodate the market's needs to efficiently dispose of milk not needed for fluid use. At the same time, it is necessary to assure that milk supplies will be available for fluid use.

It is apparent from the testimony that cooperatives could meet their needs for handling reserve milk dispositions with a total diversion limit of 20–30 percent of their total supplies. DI, for example, indicated that about 80 percent of its producers' milk would be needed for fluid use. AMP indicated that diversions would rarely be as much as 25 percent. Southern Milk Sales' suggested touch-base requirement of 70 percent for individual producers in the short production months would leave 30 percent of their production that would not be required to be delivered to pool plants. There was no testimony by handlers on the need to divert the milk of independent producers.

Based on the evidence noted above, it is concluded that handlers' diversions of milk to nonpool plants should not exceed an amount equal to 30 percent of the milk physically received at pool plants during the month. This is slightly less than the order proponent proposed (30 percent of physical deliveries to pool plants is equivalent to 23 percent of total supplies). Nevertheless, it should adequately serve the purpose of providing an efficient method for disposing of milk not needed for fluid use in the market.

A pool plant operator, other than a cooperative association, should be allowed to divert any milk that is not under the control of a cooperative that is diverting producer milk during the month. The total quantity of milk that such plant operator may divert during any month should be limited to 30 percent of the producer milk physically received at such plant during the month. Likewise, a cooperative association should be allowed to divert milk for its account. In this case, the percentage limit should be 30 percent of the cooperative association's producer milk that is delivered to and physically received at pool plants during the month.

The diversion allowance for handlers should apply in each month. The record indicates that a 30 percent allowance will accommodate handlers' needs in the flush production months, and thus no problems should be experienced by such handlers with the same allowance in the other months. In addition, since plants will be required to meet specified performance standards to attain pool status each month under the new order, a diversion allowance should be specified for handlers on a year-round basis.

The diversion allowance provided herein for handlers establishes the maximum quantity which cooperatives and pool plant operators may divert each month. Having set that allowance at an appropriate level, the individual producer "touch-base" standard should be set at a minimal level in order to allow handlers the maximum flexibility to receive milk from producers in the least costly manner.

Marketing efficiency is optimized when a handler can decide, with the minimum amount of interference, how and where to move milk supplies under such handler's control. Producers supplying a particular pool plant can be widely dispersed. For this reason, a handler may receive milk from several farm routes, some of which likely would be nearer to the plant than others. Thus, it would be more economical to receive the milk of those producers located closest to a handler's plant on a regular basis and to receive the milk of more distant producers only when the handler needs the extra milk. Of course, the reverse would also be true for the disposal of the reserve milk. The handler would want to divert to nonpool manufacturing plants the milk of the distant producers more often than the milk of those producers who are located closest to the pool plant, assuming that the manufacturing plant is located in the outer reaches of the milk shed or beyond, as is likely the case.

It is reasonable, however, that the order include a minimal "touch-base" provision that would require each producer's milk to be received at a pool plant each month. For this purpose, DI's proposed requirements, which would vary seasonally, should be adopted. To qualify a producer's production for diversion to nonpool plants during the month, 10 days' production would have to be delivered to a pool plant during each of the months of September-January and 4 days' production would be required in each of the months of February through August. In view of the anticipated supply-demand situation in the proposed market, the touch-base requirement should apply throughout the year. This procedure is consistent with requiring pool plants to meet monthly performance standards and specifying

monthly diversion allowances for handlers.

As indicated, a seasonally higher requirement would apply in the months of September through January and a lower requirement would apply in the months of February through August. The peak demand for milk in this market occurs on at least four days each week, or a minimum of 16 days each month. On these days, practically all of the available milk of producers associated with the market is needed at distributing plants. It is anticipated that producers on every-other-day pick-up would make a least 8 deliveries (16 days' production) to distributing plants on such peak days. Thus, A touch-base requirement of 10 days' production (five deliveries for producers whose milk is picked up every other day) each month September through January is reasonable. Such a standard is adequate to establish that a producer is eligible to have milk diverted to a nonpool plant during the months when production is short relative to the demand for Class I milk.

During the months of February through August, only four days' production of each producer would have to be received at a pool plant to qualify such producer's milk for pool participation. During these months, the market's fluid needs generally would require a lesser proportion of the available milk supply. Thus, greater flexibility in disposing of the reserve milk supplies would be desirable, and would be provided by not requiring as much of each producer's milk to be delivered to a pool plant.

DI suggested that if a supply plant's qualification is based solely on shipments to distributing plants as the order proponent suggested, then the individual producer touch-base requirement should be met by deliveries to pool distributing plant only. It is unnecessary, however, to specify that only deliveries to pool distributing plant may establish a producer's association with the fluid market.

A supply plant's pool status would be determined solely on the basis of shipments to distributing plants. If the supply plant meets the shipping requirements of the order and thus becomes a pool plant, it has demonstrated an adequate association with the fluid market. Dairy farmers delivering milk to the supply plant are thus themselves with the fluid market.

The order should provide a procedure to be followed for determining pool status of the milk if a pool plant operator or cooperative association diverts milk in excess of the percentage allowanced specified in the order. As adopted herein, the excess quantity of milk would not qualify as producer milk and would not be priced under the order. In such cases, the diverting handler would be required to designate the dairy farmer deliveries that should not be considered producer milk. Absent such designation, no milk diverted by the handler would be producer milk. This method of identifying overdiverted milk was proposed by the order proponent.

Also, the order should provide the method suggested by the order proponent to determine which producers' milk should not be qualified as producer milk when a cooperative's diversions from a pool plant to nonpool plants would cause such plant to lose its pool status. In such cases, the cooperative should be responsible for indentifying which dairy farmers' milk would not be producer milk. Since the cooperative is the accountable handler to the pool for the producers' milk, such handler is in the best position to identify those producer deliveries that would not be producer milk for purposes of assuring continued pool status for the plant involved.

If the cooperative fails to designate the dairy farmers' deliveries that are to be excluded as producer milk, no milk diverted by the cooperative to nonpool plants would be considered producer milk. This procedure is consistent with the method used to specify which dairy farmer deliveries should not be considered producer milk when a handler diverts milk in excess of the precentage allowance specified in the order.

As proposed by AMP, milk diverted from a pool plant to a nonpool plant would be priced at the location of the nonpool plant where the milk is physically received. If diverted milk were priced on the basis of the pool plant from which diverted, different prices could apply for milk received at a pool plant and a nonpool plant at the same location. The pricing method adopted herein is consitant with the requirement of the Act that milk be uniformly priced to all handlers based on the location at which delivery of the milk is made.

The hearing notice included a handler proposal to permit diversions between pool plants. At the heaing a handler spokesman indicated that the proponents had decided to withdraw their proposal.

Other source milk. An other source milk definition should be adopted for the new Alabama-West Florida order. In addition to milk received from producers, a regulated pool plant may receive milk or milk products from other sources. An "other source milk" definition will serve to specifically identify the various categories of such receipts.

The order proponent suggested that the "other source milk" definition that was adopted when a uniform milk classification plan was provided for 39 Federal order markets on August 1, 1974, be included in the new order. There was no opposition to this proposal, which is adopted.

As provided herein, "other source milk" would be all skim milk and butterfat in a handler's receipts of fluid milk products or bulk fluid cream products from any source other than producers, cooperative association handlers, or pool plants. It also would include a handler's receipts of fluid cream products in packaged form from other plants. In addition, any milk products (other than fluid milk products, fluid cream products and products produced at the plant in the same month) from any source which are reprocessed, converted into, or combined with another product in a handler's plant during the month would be considered a receipt of "other source milk". Receipts of milk products (other than fluid milk products or fluid cream products) for which the handler fails to establish a disposition also would be included under the "other source milk" definition.

Although fluid cream products would be Class II products and would not be included in the order's fluid milk product definition, bulk fluid cream products should be treated in the same manner as fluid milk products for purposes of applying the other source milk definition. This procedure will facilitate the application of the other provisions of the order.

Receipts of fluid cream products, eggnog or yogurt (or any filled product resembling such products) in packaged form from other plants would be considered other source milk. These products are Class II under the classification plan provided for this market. Although no handler obligation would apply under the order provisions adopted herein with respect to such receipts, it is desirable for accounting purposes that receipts of packaged Class II products be defined as other source milk. This accounting technique will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's

Class II utilization, rather than being allocated to the extent possible to the handler's lowest class of utilization as is provided in some cases for other types of other source milk.

The order should provide that manufactured products from any source that are reprocessed, converted into, or combined with another product in the plant shall be considered as other source milk. For accounting purposes, such manufactured products would include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or lowfat cottage cheese, the receipts of dry curd would be allocated under the provisions adopted herein directly to the handler's Class II utilization. No handler obligation would apply under the order to such receipts.

The order also should provide that products manfactured in a pool plant during the month and then reprocessed, converted into, or combined with another product in the same plant during the same month not be defined as other source milk. For example, assume that a handler makes condensed skim milk from producer milk and then uses the condensed product in making ice cream. It is intended under this situation that the producer milk be considered as having been used to produce ice cream. The condensing operation is merely one of the steps performed by the handler in processing ice cream from raw milk.

Any disappearance of manufactured milk products for which the handler fails to establish a disposition would be considered other source milk. It is reasonable that each handler be required to account for all milk and milk products received or processed at the handler's regulated plant. Otherwise, a handler with inadequate records may have an opportunity to gain a competitive advantage over competitors who properly account for all of their receipts of milk and milk products. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

Filled milk. Filled milk should be defined as any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

This definition and the treatment afforded such products under the order are consistent with the provisions and treatment of filled milk adopted in the Assistant Secretary's decision for all Federal orders issued October 13, 1969 (34 FR 16881). Official notice was taken of the 1969 decision at the hearing held June 23–July 2, 1980, for this market. The record evidence indicates that the findings and conclusions of the 1969 decision are equally applicable under current marketing conditions in the proposed marketing area.

Cooperative association. A definition of "cooperative association" should be adopted as suggested by the order proponent.

As provided herein, a cooperative association means any cooperative marketing association of producers which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of, or marketing milk or milk products for its members.

Defining such an organization of producers will facilitate the formulation of the various other order provisions as they apply to such an association of producers.

(b) *Classification of milk.*

The statutory authority for Federal milk orders specifies that an order shall classify milk in accordance with the form in which or the purpose for which the milk is used. As proposed by proponent, the order should provide for three classes of utilization.

The products included in Class I milk and sold in the proposed marketing area for fluid consumption are required to be produced in compliance with the inspection requirements of a duly constituted regulatory agency. This is in contrast to the absence of such requirements for manufactured dairy products such as butter and hard cheese. Because of the extra cost of getting high-quality milk produced and delivered to the market in the condition and quantities required, it is necessary to establish a separate class for such milk to which a price above the manufactured milk price may be applied. The higher price for Class I milk must be at a level which, together with the prices applicable to other classes, will yield a "uniform" price that will encourage production of milk to meet the fluid requirements of the market.

Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

Each product designated herein as a Class I product would be considered a "fluid milk product" as defined in the order. In addition to these fluid milk products, Class I milk would include any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

As provided, skim milk or butterfat disposed of as filled milk in fluid form shall be classified as Class I milk. This classification is identical to the treatment of filled milk in all Federal order markets. The basis for the uniform treatment of filled milk under this and all other Federal orders is set forth in the earlier findings concerning the definition of filled milk.

Class III milk should include products which are made from surplus Grade A milk and which compete in a national market with similar products made from manufacturing grade milk. These products include cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), butter, any milk product in dry form (such as nonfat dry milk), any concentrated milk product in bulk, fluid form that is used to produce a Class III product, and evaporated or condensed milk (plain or sweetened) and evaporated or condensed skim milk (plain or sweetened) in consumer-type packages. Class III milk also should include any product not specified in Class I or Class II.

An intermediate class, Class II, should apply to certain products which can command a higher value than Class III products, but which must be competitively priced below Class I in order to compete with non-dairy substitute products or manufactured dairy products that can be used in making Class II products. Class II milk should include skim milk and butterfat disposed of in the form of a "fluid cream product," eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles one of these products. As defined in the order, "fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

Class II milk should also include bulk fluid milk products disposed of to any commercial food processing establishment at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. In addition, it should include milk used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, and certain other products as specified in the order.

The classification scheme adopted herein was proposed by the order proponent and is identical to the uniform classification plan contained in many of the other Federal order markets. The plan was based on exhaustive hearings held on this issue in 1971 for 39 markets. The final decision on the uniform classification plan was issued February 19, 1974 (39 FR 9012). Official notice was taken of this decision at the hearing held June 23–July 2, 1980, for the Alabama-West Florida market. It contains a detailed discussion of the classification issue. Official notice also was taken of the Assistant Secretary's decision issued July 17, 1975 (40 FR 30119), which modified certain provisions originally adopted in the 39-market decision.

Proponent testified that this classification system (as modified in 1975) would be fully appropriate for the proposed order. Adoption of the uniform classification plan in this new order will coordinate these essential provisions with the same provisions under most other orders.

The record evidence indicates that the findings and conclusions of the above mentioned decisions are equally applicable under current marketing conditions in the proposed marketing area.

Classification of shrinkage. The Alabama-West Florida order should contain provisions for classifying skim milk and butterfat in shrinkage. The shrinkage provisions adopted herein are similar to the shrinkage provisions now provided in most orders.

Total plant shrinkage should be prorated between (1) those kinds of receipts on which the Class III shrinkage limitations apply, and (2) other receipts, principally other source milk in the form of fluid milk products requested for Class II or Class III use. To the extent that the quantity of shrinkage prorated to the first category exceeds the established Class III limit, the excess should be classified in Class I.

The shrinkage provisions provided herein recognize that shrinkage normally varies with the type of handling involved. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler. Thus, with respect to milk picked up at producers' farms and delivered to a plant, a Class III shrinkage allowance of 0.5 percent for such milk is provided.

A Class III shrinkage allowance of 1.5 percent to cover milk lost in processing is provided for the pool plant operator. This provides a total of 2 percent Class III shrinkage allowance for such milk from producers in the receiving and processing operations.

The total shrinkage allowance applicable to a pool plant operator depends upon whether the plant operator purchases the milk at farm weights and tests or at plant weights and tests. The provisions allow the plant operator up to 2 perecent shrinkage in Class III if the milk is purchased on the basis of weights determined at the farm and butterfat tests determined from farm bulk tank samples. In this case, there is no shrinkage allowance for a cooperative association handler who may have delivered the milk from the farm to the pool plant.

As provided herein, when bulk milk is transferred to another plant, the shrinkage allowance to the transferor handler would be reduced at the rate of 1.5 percent of the quantity tansferred. This is similar to provisions now applicable under most orders.

In the case of milk diverted from a pool plant to a nonpool plant, a shrinkage allowance in Class III of 0.5 percent would be provided the diverting handler if the operator of the plant to which the milk is diverted purchases such milk on the basis of weights and tests determined at the plant. If the milk is purchased at farm weights and tests, no shrinkage allowance would apply for the diverting handler. This same procedure would apply to cooperative bulk tank deliveries to pool plants when similar handling is involved.

This division of the 2 percent shrinkage allowance, both in the case of deliveries from cooperative bulk tank handlers to plants and for transfers between plants, has been found practical and has been well accepted in Federal order markets where it now applies.

Shrinkage should be accounted for on an individual plant basis in the case of a handler operating more than one pool plant under the order. This procedure will promote plant efficiency in the Alabama-West Florida market.

Classification milk transferred or diverted to other plants. Some fluid milk products or fluid cream products may be disposed of by regulated handlers to other plants. It is necessary, therefore, to provide specific rules so that the classification of such movements may be determined under his order.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable ony by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk from a pool plant to another plant be classified in a manner similar to that used in classifying transfers of bulk fluid milk products.

Some skim milk or butterfat may be transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant. Such transfers should be classified as Class I milk unless both handlers request the same classification in another class in their monthly reports to the market administrator and sufficient Class II or Class III utilization is available at the transferee-plant after the allocation of its receipts of other source milk. If the shipping plant received other source milk in the form of nonfat dry milk, for example, during the month, the skim milk and butterfat so transferred should be classified so as to allocate the least possible Class I utilization to the other source milk. If the

shipping handler received other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee-plant.

Transfers from a cooperative bulk tank handler to the pool plant of another handler should be assigned classification pro rata with producer milk received at the plant.

The provisions governing transfers between pool plants described herein will contribute to obtaining the best possible utilization of producer milk. Such provisions will tend to insure that producer milk used in Class I will not be classified in a lower class when interplant shipments involve a pool plant with receipts of other source milk. Unless such safeguards are provided, a high-utilization plant could be used as a conduit for assigning milk obtained from nonpool sources for manufacturing purposes to a higher utiliztion (at the expense of producer milk) than it would receive by direct delivery to the plant at which it is actually utilized.

Skim milk or butterfat may be transferred or diverted from a pool plant to an other order plant in the form of a fluid milk product or transferred from a pool plant to an other order plant in the form of a bulk fluid cream product. The classification of such transfers or diversions shall apply only to the skim milk and butterfat in excess of any receipts at the pool plant from the other order plant.

The order should provide for the diversion of milk to other order plants for Class II or Class III use. Such provisions will foster the efficient handling of surplus milk in the market by permitting the disposal of such milk directly from farms to manufacturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the Alabama-West Florida market.

Fluid milk products transferred or diverted to other order plants and bulk fluid cream products transferred to such plants will be classified in accordance with the classes to which such milk is allocated under the other order. If information concerning the classification of transfers and diversions is not available to the market administrator in time to compute handler pool obligations, such transfers shall be classified in Class I, subject to adjustments when the information is available. In addition, the order should provide that if the other order provides for a different number of classes than the Alabama-West Florida order, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified in Class I and skim milk and butterfat allocated to other classes shall be classified as Class III milk. The order also provides that if a fluid milk product is transferred to an other order plant and such product is not defined as a fluid milk product under the other order, classification of such transfer shall be in accordance with the classification provisions of this order.

The order should prescribe a method for classifying the skim milk and butterfat in transfers from a pool plant to a producer-handler or in transfers or diversions from a pool plant to a governmental agency plant. If such skim milk and butterfat are in the form of a fluid milk product, such transfers should be classified as Class I milk. As described elsewhere in this decision, such a classification is necessary to assure that producers are not burdened with maintaining reserve supplies associated with the Class I sales of such operations.

Skim milk and butterfat in the form of bulk fluid cream products transferred from a pool plant to a producer-handler or a governmental agency plant should be assigned to the extent possible to the receiving plant's Class III use, and then to Class II use. If the producer-handler or governmental agency plant does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

The order also must prescribe a procedure for classifying transfers or diversions to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant. Bulk fluid milk products transferred or diverted and bulk fluid cream products transferred should be classified as Class I milk unless a lower classification is requested and the operator of the nonpool plant makes available to the market administrator books and records for the purpose of verifying the receipts and utilization of milk and milk products at the nonpool plant. To determine such lower classification, the nonpool plant's utilization must be assigned to its receipts of milk from various sources.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the Alabama-West Marketing area, and any transfers of packaged fluid milk products from the nonpool plant to Alabama-West Florida pool plants, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under the Alabama-West Florida order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned. Such use would be assigned first to the nonpool plant's remaining unassigned receipts of fluid milk products from plant fully regulated under the Alabama-West Florida order and second to any such remaining receipts from plants fully regulated under other orders.

Any remaining unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class.

Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

The method herein provided for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer and diversion provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

Allocation of receipts to utilization. Because the value of producer milk is based on its classification, the Alabama-West Florida order must provide a procedure for assigning a handler's receipts from different sources to the handler's utilization for the purpose of establishing such classification.

The order proponent testified that the system of allocating handlers' receipts to the various classes should be the same as that adopted in the Assistant Secretary's decision dealing with the classification, allocation and pricing of other source milk issued July 7, 1964 (29 FR 9110), commonly known as the "compensatory payment" decision.

The "compensatory payment" decision dealt with the issue of integrating into each order's regulatory plan milk which is not subject to classified pricing under any order and receipts at pool plants from other order plants. The decision established a procedure for allocating over a pool plant's total utilization the receipts at the plant from all nonpool sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Proponent's representative testified that the method developed for all Federal milk marketing orders as discussed in the 1964 decision is appropriate in the proposed marketing area and will coordinate these regulations with respect to the treatment of unregulated milk and other order milk with comparable regulations under other Federal orders.

The aforesaid decision sets forth the standards for dealing with unregulated milk under Federal orders and the system of allocation to be included in all orders. It describes the appropriate treatment of other order milk received at pool plants that is used for coordinating the applicable regulations on all movements of milk between Federal order markets. This record indicates that the findings and conclusions of the aforesaid decision are equally applicable under current conditions in the proposed marketing area.

The order also provides that handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products be permitted to have such other source milk allocated directly to their Class II uses. Under the classification plan provided herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

Handlers rely largely on producers for a regular supply of milk for the products herein included in Class II. The major use of other source milk in making these Class II products is the addition of nonfat dry milk to cream products, mainly half and half, and to skim milk being used for the manufacture of cottage cheese. On occasion, when producer supplies are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or skim milk may be similarly used. Handlers choosing to use such other source milk in this way should be permitted to have such milk allocated directly to their Class II utilization rather than allocated first to any Class III utilization they may have.

It is not intended that the Class II outlet for producer milk necessarily be reserved for local producers. This use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use. As indicated elsewhere, this would be so with respect to the alternative use of nonfat dry milk, the type of other source milk most commonly used in Class II products.

Nonfat dry milk has certain advantages for handlers that producer milk cannot provide. It can be added easily to milk or milk products to increase their nonfat milk solids content. Also, its storability permits handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, the higher cost of nonfat dry milk relative to producer milk would tend to limit its use to only those situations where the nonfat dry milk has a distinct processing advantage for handlers.

No provision should be made for the direct allocation of a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusal for a handler to commingle receipts of fluid other source milk with receipts of producer milk. In this circumstances, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating the actual use of fluid other source milk in a Class II product and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk to Class III.

It should be noted that the order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Classs III utilization and then to his Class II utilization. This would be the case even if a Class II classification were requested by the handler.

The attached order provides that, in the case of a multiple-plant handler, each of the handler's pool plants shall be considered separately for purposes of allocating receipts to utilization. In accordance with the "compensatory payment" decision referred to earlier, however, certain receipts of milk from unregulated supply plants and other Federal order plants are to share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of the handler's pool plants combined. The order, therefore, provides a procedure whereby the milk from unregulated supply plants and other order plants is classified on the basis of the handler's total system, but is assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of handler's entire system). In this case, an accounting technique is used for increasing the utilization of such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of such handler's other pool plants in the system. This technique, however, does not change the amount of milk to be accounted for at each plant or the classification of milk within the handler's entire system.

The new order should *not* provide that in an emergency the market administrator may waive certain allocation and pricing provisions that give preference to milk from regulated sources. Such a provision was proposed by five proprietary operators of plants that would be pool distributing plants.

A representative for Borden, Inc., which operates a plant at Pensacola, Florida, testified in support of the proposal. He related the need for such a provision to the procurement problems faced by the Pensacola plant. The plant receives about 75 percent of its milk supply from independent producers. The reminder comes from a cooperative.

The witness stated that the Pensacola plant at times is unable to obtain adequate supplies of milk from local sources. He testified that in the fall months, when milk production falls short of Class I needs, cooperatives normally allocates their supplies first to those plants that receive their total supplies from cooperatives. According to the witness, plants that receive only supplemental supplies from the cooperatives may have a problem obtaining additional milk under such circumstances.

The handlers' spokesman contended that absent the proposed emergency provisions, the operator of such plants have only two alternatives. One would be to buy 100 percent of their milk from independent producers, thus eliminating any reliance on supplemental supplies from cooperatives. A second option would be to buy all the plant's needs from a cooperative association. He expressed a view that it was not the intent of the order to cause either to happen.

At times the Pensacola plant has had to reach out and bring in "spot" loads of milk from as far as the Carolinas, Pennsylvania, and Wisconsin. Unless brought in as "producer milk" under a Federal order, or obtained from a plant that is a pool plant under another Federal order, such milk is "other source milk" and is assigned to the lowest priced classification under the local order. If any such other source milk is assigned to Class I, an additional charge or compensatory payment is required. It is this provision that the handlers propose be waived if the market administrator verifies that an "emergency" exists. "Emergency" was defined by proponents' witness simply as a situation where milk is not physically available in the market.

This proposal was opposed at the hearing by a spokesman for Dairymen, Inc. He stated the association's belief that such a provision would undermine the operation of the Federal order. Moreover, the cooperative maintained that adoption of such a provision would tend to lower prices to producers at a time when milk was most needed. According to the witness this would depress local milk production, which is the most economic source of supply for the area.

Counsel for AMP noted that the handlers' proposal was contradictory to AMP's proposal and stated the association's opposition to the proposal. However, AMP's brief of proposed findings and conclusions urged that the proposal be denied on the basis that the type of emergency referred to could be arranged through certain purchasing practices. The association's brief takes the view that adoption of the proposal would leave "a wide opening for substantial abuse of the Federal milk order system and in particular this proposed Alabama-West Florida order."

The proposal should not be adopted on the basis of the record obtained in this proceeding. A key element of the proposal is that the market administrator would need to verify that an emergency situation existed. Proponents' witness maintained that the market administrator could establish through a single telephone call whether any cooperative association milk is available for delivery to a handler's plant. This may be possible where cooperatives have joint arrangements to supply milk in the most efficient manner, as was the case in this market at the time of the hearing. However, there is no basis to conclude that such arrangements are permanently fixed or that other cooperative associations not involved in the arrangement will not be supplying milk to the market in the future.

The record shows, moreover, that cooperatives may negotiate prices for milk that would exceed the minimum prices established by an order. It is possible that a cooperative may demand a price higher than a handler prefers to pay. If milk is not made available to the handler at a lower price, the handler could claim that it cannot obtain milk and might contend that an "emergency" supply situation exists. In such a case, the market administrator would be unable to verify an "emergency" shortage of milk. Furthermore, any attempt to do so would inject the market administrator into the price negotiations, which goes beyond the duties and responsibilities involved in administering an order.

Another problem lies in proponents' intent that the type of relief sought should be available on a handler-by-handler (plant-by-plant) basis, i.e., the market administrator's decision on waiver thus would not be based on the total market supply and demand situation but rather on the supply problems of an individual handler. Thus, the waiver of certain allocation and pricing provisions could be granted to one handler, but not to others who received other source milk, but for some reason other than the type of emergency envisioned by the proponents. This latter point raises a basic question of handler equity because the proposed provisions for waiver would not be applicable on a marketwide basis.

It is noted that proponents' witness stated that the proposal should not provide a means for circumventing the classification, allocation, and pricing provisions of the order. The allocation provisions adopted for the Alabama-West Florida order are based on uniform provisions already incorporated into all orders. Absent compelling evidence to justify departing from such uniform provisions, the new order should include the allocation provisions as proposed by the order proponent. The record in this proceeding does not provide a basis for concluding that the waiver proposal can be adopted without

at the same time tending to undermine the classification pricing provisions of the Act. For the foregoing reasons, the proposal is denied.

Classification of end-of-month inventory. The order should provide for the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Ending inventory of fluid cream products, eggnog, and yogurt, when held in bulk form, likewise should be classified in Class III. Such products held in packaged form at the end of the month should be classified as Class II milk.

Inventories classified in Class III should be subject in the following month to reclassification in a higher class, as determined through the allocation of receipts to utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory.

Because of the regulatory treatment being accorded certain other source milk, it is necessary that fluid cream products, yogurt and eggnog on hand in packaged form at the end of the month be classifed in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the next month, would be allocated in such month directly to the handler's Class II utilization.

For the first month the order is in effect, a slightly different classification of inventory must apply. Beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new order, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply in the following month if a higher classification results.

(c) *Pricing of milk.* In order to promote and maintain orderly marketing conditions for the Alabama-West Florida market, minimum class prices for producers should be established at levels that reflect economic conditions affecting the market supply and demand for milk. Such prices should result in returns to producers that will encourage a supply of milk sufficient to meet the fluid needs of the market, plus a reserve to provide for daily and seasonal fluctuations in demand.

The Class I price must not be so high as to attract unneeded supplies to the market. On the other hand, the price should be high enough to encourage the production of an adequate quantity of high-quality milk required for the fluctuating daily and seasonal fluid needs of the market.

The Class II price should be high enough above the manufacturing milk price to compensate producers for at least a part of the cost of delivering Grade A milk to regulated handlers for cream products, cottage cheese, ice cream, and related items for which handlers want Grade A milk.

The Class III price must be fixed at a level that will insure that milk produced in excess of the Class I requirements of the market can be processed into Class III products and disposed of in competition with similar products from unregulated manufacturing plants.

The class prices and uniform producer prices for milk should be announced on a per hundredweight basis. Because the order would not establish different values for butterfat in each class, the class prices would not be annnounced for a particular butterfat content of milk. Uniform prices to producers, however, would be announced on a 3.5 percent butterfat basis, and handlers would be required to pay producers for their milk at the uniform price adjusted by a butterfat differential to reflect any variation from 3.5 percent in the butterfat content of their milk. These provisions are consistent with such provisions widely applicable throughout the Federal order system.

Class I price and in-area location adjustments. For an 18-month period beginning with the effective date of the order's pricing provisions, the Class I price for the Alabama-West Florida market should be computed by adding a Class I differential of $2.30 to the "basic formula price" for the second preceding month. The Class I price applicable at specific locations within the marketing area should be determined by adjusting the announced Class I price by the location adjustment established for the zone in which a plant is located. The in-area zones and applicable location adjustments are defined as follows:

Zone 1—Minus 20 Cents ($2.10)

Alabama Counties

Lauderdale, Limestone, Madison, Jackson, Colbert, Franklin, Lawrence, Morgan, Marshall, DeKalb and Cherokee.

Zone 2—No Adjustment ($2.30)

Alabama Counties

Marion, Winston, Cullman, Lamar, Fayette, Walker, Pickens, Tuscaloosa, Jefferson, Blount, St. Clair, Etowah, Calhoun, Cleburne, Shelby, Talladega, Clay, Randolph, Bibb, Chilton, Coosa, Tallapoosa and Chambers.

Zone 3—Plus 15 Cents ($2.45)

Alabama Counties

Sumter, Greene, Hale, Perry, Dallas, Autauga, Elmore, Macon, Lee, Russell, Choctaw, Marengo, Wilcox, Lowndes, Montgomery, Bullock, Washington, Clarke, Monroe, Conecuh, Butler, Crenshaw, Pike and Barbour.

Zone 4—Plus 37 Cents ($2.67)

Alabama Counties

Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale and Henry.

Florida Counties

Escambia, Santa Rosa, Okaloosa and Walton.

Zone 4a—Plus 20 Cents ($2.50)

Alabama County

Houston.

The basic formula price should be the average pay price for manufacturing grade milk at plants in the States of Minnesota and Wisconsin. The price for milk used for fluid purposes in the market has a direct relationship to the prices paid for milk used for manufacturing purposes. The Minnesota-Wisconsin price, or "M–W" price, used in determining the price for Class I milk gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products. It is used as the basic formula price in all Federal order markets and is equally appropriate for use in the Alabama-West Florida order. The differential over manufacturing milk prices is necessary to reflect the added cost of meeting quality requirements in the production of milk for fluid use and the cost of moving it to market.

Proponent of the order proposed that the Minnesota-Wisconsin manufacturing milk price be the basic formula price each month. This price is an average of prices paid at a large number of manufacturing plants in the two States. Plant operators report the total pounds of manufacturing grade milk received

from dairy farmers, the total butterfat content, and the total dollars paid to dairy farmers for such milk f.o.b. the plant. These prices are reported on a current basis. The "M–W" price is announced by the Department for each month on or before the 5th day of the following month.

AMP proposed the Class I differential and the in-area zone location adjustments adopted herein. AMP proposed that its "Central zone (North)" (Zone 2 as adopted herein), which includes the Birmingham area, be the base zone for which no location adjustment would apply. The proposed in-area zone pricing system would have plus adjustments south of Zone 2 and a minus adjustment to the north.

The cooperative's spokesman testified that the proposed Class I price structure for the market would provide reasonable price alignment with nearby orders. He indicated that the proposed prices would be comparable to the prices now being paid by handlers in the market and should not result in higher consumer prices for milk.

DI presented testimony on hauling costs and the boundaries of the pricing zones, but did not present a formal proposal on the Class I price structure for the market. Meadow Gold testified on zone boundaries. No other parties presented evidence on the Class I price structure or opposed the AMP proposal.

A zoned Class I price structure is appropriate for the Alabama-West Florida marketing area because of the geographic relationship between supply and demand in the market. The record indicates that of the producers associated with the proposed market, 36 percent are located in Tennessee, 12 percent in Mississippi, 12 percent in Zone 1, 17 percent in Zone 2, 14 percent in Zone 3, 9 percent in Zone 4 (including 4a), and less than 1 percent in Kentucky. The marketing area has four population centers on a north-south axis—Huntsville, Birmingham, Montgomery, and Mobile-Pensacola. The 1978 population of the marketing area was distributed as follows: Zone 1, 16 percent; Zone 2, 38 percent; Zone 3, 18 percent; Zone 4 (including 4a), 27 percent. These statistics illustrate the geographic disparity between the location of milk supplies and the centers of demand. The Federal order price structure should be designed to attract an adequate supply of fluid milk to each of the population centers and a zoned price structure is an appropriate mechanism to accomplish this objective in the Alabama-West Florida market.

Class I prices in the Alabama-West Florida market should be aligned reasonably well with the pricing structure throughout the Federal order system. Class I prices applicable in most markets east of the Rocky Mountains generally are based on the Chicago Regional Federal order Class I price applicable at Eau Claire, Wisconsin, adjusted for transportation cost from that location to the local market at 1.5 cents per hundredweight per ten miles. This pricing structure has been adopted because the Minnesota-Wisconsin region is an area of surplus production that can serve as a source of reserve supplies for most markets. However, the Class I prices in some markets deviate from this formula because of local market conditions.

Class I prices in this market also should be aligned with the existing prices in surrounding Federal order markets. Alignment should be as close as possible to prevent serious marketing disruptions as a result of implementing a Federal order in the area. Price alignment with nearby markets should prevent handlers in Alabama and West Florida from being placed in an unfavorable competitive position or being given a competitive advantage over handlers regulated by other Federal orders in the region.

Close alignment of the price structure in this market with prices in the surrounding markets and the overall Federal order pricing structure, however, is not possible because of the pricing arrangements in the surrounding markets. To the north, the Class I price for the Nashville order is slightly lower than the Eau Claire, Wisconsin, Class I price plus transportation (at the 1.5-cent rate) to Nashville. Therefore, Alabama prices based on the Eau Claire price plus transportation would be somewhat high relative to the Nashville order price. The Alabama-West Florida market is bounded on the west by the New Orleans-Mississippi market, where prices increase from north to south under a zone pricing structure. To the east is the Georgia market, which has a large area subject to the same Class I price. For reasons stated earlier in this decision, a zone price structure with prices increasing from north to south is appropriate for this market. Alignment of zone prices with the New Orleans-Mississippi market is not difficult to achieve. The eastward extension of the existing Mississippi zone lines generally meets this objective, except for alignment with a group of 12 unregulated counties in northeastern Mississippi. However, a close alignment of the new order's price zones with the pricing in the Georgia market is not possible because the southern two-thirds of the Georgia marketing area (which covers most of the State) has a Class I differential of $2.30. Therefore, any attempt to align prices in southern Alabama and West Florida with both the Georgia price and the New Orleans-Mississippi price will not be successful. Nevertheless, a pricing structure must be provided for the new order within the constraints imposed by the above conditions.

The price structure proposed by AMP is a reasonable approach to reconciling the problems of price alignment in this market. The Eau Claire price adjusted to Birmingham at the 1.5-cent rate would be approximately $2.42, while the Nashville price adjusted to Birmingham by the same rate would be $2.14. The AMP proposal for a $2.30 Class I differential for the base zone at Birmingham represents a compromise between the national pricing system and the adjusted Nashville price. Moreover, a $2.30 differential at Birmingham would provide good price coordination on an east-west basis with the existing Federal order Class I differentials of $2.30 at Atlanta, Georgia, and Columbus, Mississippi. Therefore, $2.30 is a reasonably appropriate Class I differential for the region surrounding Birmingham. It should be reasonably adequate as a minimum Federal order price, together with the zone pricing structure adopted herein, to attract sufficient supplies of milk for the market.

The Class I price adopted for the order should be reviewed within 18 months of the date the order becomes fully effective. By such time, data relative to milk supplies and sales in the market will have been accumulated. This will allow for a careful re-examination of the appropriate Class I price level for this market at a public hearing.

The zone delineations proposed by AMP are only slightly different from the existing price zones as defined by the Alabama Dairy Commission (ADC). The AMP plan places each major metropolitan area in a separate zone and the location adjustments between zones generally reflect the 1.5-cent per ten mile rate. The AMP plan also places all distributing plants located in Alabama in the same zone as under the ADC regulation, except for a plant in Dothan, Alabama.

DI proposed that the AMP zone plan be amended by (1) moving six Northwest Alabama counties (Marion, Winston, Cullman, Lamar, Fayette, and Walker) from Zone 2 to Zone 1; (2) moving Cherokee County, Alabama from Zone 1 to Zone 2; and (3) moving seven East Central Alabama counties

(Bibb, Chilton, Coosa, Clay, Randolph, Tallapoosa, and Chambers) from Zone 2 to Zone 3. Adoption of this proposal would affect only one plant, the DI Flav-O-Rich distributing plant at Fayette. This plant would shift from Zone 2 to Zone 1, lowering the Class I differential for the plant from $2.30 to $2.10. The proposal was based on an analysis of retail sales patterns revealed in a sales survey which, according to DI, showed that the DI plan more accurately reflected the competition among handlers in the marketing area than the AMP proposal.

Meadow Gold, a fluid milk distributor, asked that Lee County, Alabama, be placed in Zone 2 rather than Zone 3 as proposed by AMP. This proposal would lower the Class I differential applicable at Meadow Gold's Opelika plant from $2.45 to $2.30. The Meadow Gold proposal was based on an analysis of data on sales patterns which purported to show that placing Lee County in Zone 2 would more accurately describe the market in which the Opelika plant competes for fluid milk sales.

The DI and Meadow Gold proposals refect the premise that pricing zones should represent the geographic region in which handlers compete for fluid sales. However, competition among handlers cannot be the sole criterion for drawing zone lines because the primay function of the Class I differential in Federal orders is to attract an adequate supply of milk for the fluid market.

The record indicates that in 1978 less than one-half of the milk needed for the fluid market in Alabama came from Alabama producers on an annual basis. Therefore, it is reasonable to conclude that handlers in the Alabama-West Florida market vigorously compete among themselves and with handlers in other markets for supplies of raw milk produced both within and outside of Alabama. In this circumstance, Class I prices at various plant locations must reflect the economic value that milk has to handlers at those locations.

Under the Class I price structure adopted herein for the market Class I prices would increase from north to south. This gradation of prices would reflect the additional value that milk has at the various plant locations relative to the value of milk in the more northern areas, such as in Tennessee where milk supplies are much more plentiful than in Alabama. Handlers in Alabama generally rely on local milk supplies to the extent possible. It is necessary, though, to procure milk from the heavier production areas in Tennessee. Producers in the Tennessee areas cannot be expected, however, to make their milk available to handlers in the deficit production areas in Alabama unless there is a sufficient price incentive. This is related largely to the cost of moving milk.

The Class I prices that would apply at various plants throughout the marketing area thus would represent the value of an economic service to handlers by distant producers who bear the cost of moving their milk to the handlers' plants. This is the case even where a handler draws his entire supply from producers located near his plant. In the absence of any local supply, the handler would have to procure milk from other areas. Thus, the value of milk at that location necessarily must reflect the cost of obtaining milk from reserve supply sources. Also, the economic value of the local milk supply at a given plant location is related to the local producers' opportunity to ship milk to other plants where the price is higher. If the local price is too low relative to this "opportunity" price at other locations, the local supply will be attracted to other areas.

The DI proposal to place the Flav-O-Rich plant at Fayette in Zone 1 is denied. The $2.10 Class I differential that would result from adoption of the proposal would not reflect the general economic value that milk delivered to the Fayette location has. Distributing plants that are relatively close to the Fayette plant are located at Birmingham, Alabama, and Columbus, Mississippi. The Class I price differential at Birmingham, even under the DI proposal, would be $2.30. Similarly, the Class I differential at the Columbus plant, which is regulated under the New Orleans-Mississippi order, is $2.30. Since all three locations lie generally on an east-west line, it is reasonable to establish a Class I differential of $2.30 at the Fayette location. A lower price at Fayette could jeopardize the attraction of adequate supplies at that location over the long run.

The Meadow Gold proposal to move Lee County, Alabama, from Zone 3 to Zone 2 also is denied. The record indicates that the Opelika plant obtains much of its milk supply from Alabama producers. It is presumed, then, that the Opelika plant is competing for local milk supplies with handlers located at Montgomery, Alabama, where a Class I differential of $2.45 would apply under the proposed order. It is recognized that a $2.30 differential applies under the Georgia order at a nearby distributing plant at Columbus, Georgia. However, over the long run, a $2.30 differential at Opelika could place the plant at a disadvantage in competing for raw milk supplies in its principal procurement area in Alabama.

The AMP proposal to create a special pricing provision for a plant at Dothan, Alabama, is adopted. The order should designate a separate Zone 4a that would be limited to Houston County, Alabama, where Dothan is located. This zone should have a plus 20-cent location adjustment rather than the plus 37 cents applicable in Zone 4. Although the proposals by DI and Meadow Gold also were in part premised on competition from unregulated or other order handlers, the 37-cent difference between Dothan and nearby Georgia handlers is substantially greater than the 15-cent difference between Opelika and Georgia handlers or the 20-cent difference between Fayette and the plant at Tupelo, Mississippi, which has been regulated under the Memphis order since July 1980.[5] Prior to July 1980, the plant at Tupelo was an unregulated plant. The special provision included for Houston County reduces the difference between the Georgia Class I differential and the Alabama-West Florida Class I differential applicable at Dothan to 20 cents, which is similar to the position of other Alabama-West Florida handlers who compete with other order handlers.

Out-of-area location adjustments. The Class I price at plant locations outside the marketing area should be the Class I price for Zone 2 plus or minus the following location adjustments:

(1) For a plant located in the Tennessee or Georgia counties included in the Tennessee Valley marketing area or Bledsoe County, Tennessee, the adjustment should be minus 20 cents ($2.10 Class I differential);

(2) For a plant located in the Nashville marketing area or Franklin, Grundy, Lincoln, Moore or Van Buren Counties in Tennessee, the adjustment should be minus 45 cents ($1.85 Class I differential);

(3) For a plant located outside the marketing area and north of a line extending through the northern boundaries of Georgia, Alabama and Mississippi and not located in the areas covered by paragraphs (1) and (2) above, the adjustment should be minus 20 cents and minus an additional 1.5 cents for every 10 miles or fraction thereof that such plant is from the nearer of the City Hall in Florence or Huntsville, Alabama;

(4) For a plant located outside the marketing area and south of the line

[5] Official Notice is taken of the Announcement of Uniform Prices for the months of July 1980 through May 1981, Memphis, Tennessee, Marketing Area, issued by the Market Administrator, P.O. Box 4225, Little Rock, Arkansas 72214.

through the northern boundaries of Georgia, Alabama, and Mississippi, and not in the State of Florida or the Georgia counties listed in paragraph (1) above, the adjustment should be the adjustment applicable at Mobile, York, Tuscaloosa, Florence, Huntsville, Gadsden, Opelika, or Dothan, Alabama, whichever is nearest; and

(5) For a plant located outside the marketing area and in the State of Florida, the adjustment should be plus 55 cents ($2.85 Class I differential).

AMP was the only party that proposed out-of-area location adjustments. AMP's objective in drafting the out-of-area location adjustment proposal was to align the Alabama-West Florida prices with the minimum prices in surrounding Federal orders so that the implementation of a Federal order in Alabama would not disrupt established marketing arrangements. The adjustments adopted by this decision follow closely the AMP proposal. However, the adjustments adopted for the Nashville and Tennessee Valley marketing areas are different.

The Nashville marketing area and the unregulated counties in South Central Tennessee outside the Tennessee Valley order are major sources of fluid milk for the proposed marketing area. For this reason, the Class I price applicable at plants in the Nashville marketing area and five unregulated counties must be low enough to reflect the cost of moving milk south into Alabama. The AMP proposal would have established a Class I differential of $2.10 for much of this area, including DI's plant at Lewisburg, Tennessee. However, this price would not recognize the cost of transporting milk into Alabama and would not encourage the movement of milk from a supply or balancing plant to distributing plants in the marketing area. For this reason, the location adjustment for this area should provide a Class I differential of $1.85, which is 25 cents lower than the adopted differential at Huntsville, Alabama. This 25-cent difference should provide an incentive for producers in South Central Tennessee either to deliver their milk to plants located in Tennessee but pooled on the Alabama-West Florida market and save hauling costs to Nashville or to ship directly to plants in the proposed marketing area and receive the higher price. The $1.85 Class I differential is identical to the Nashville Class I differential which provides for a uniform value of fluid milk in South Central Tennessee.

The decision calls for a minus 1.5-cent per ten miles adjustment for plants located north of the marketing area and not covered by any other location adjustment provision. This would align the Alabama-West Florida Class I price with the lower Class I prices under other Federal orders to the north that are nearer to the Nation's reserve supply area.

Location adjustment credits. In conjunction with its pricing proposal, AMP proposed that a pool plant transferring fluid milk products in bulk form for Class I use to a pool distributing plant at which a higher Class I price applies be accountable for such products at the higher price applicable at the transferee-plant. Under the proposal, however, transferor-plants would receive a location adjustment credit against the higher price equal to the difference between the Class I differentials applicable at the two plants. This was intended to encourage the movement of milk to market centers for Class I use.

When the operator of a supply plant located in an outlying area ships milk to a distributing plant where a higher Class I price is applicable, the supply plant operator cannot pay both the higher price and the transportation costs for hauling the milk to the distributing plant. Thus, a lower Class I price is needed at the supply plant location to reflect the cost of moving the milk to the distributing plant. Such price reductions, however, reduce the total value of the pool. In addition, if supply plant milk replaces local milk going to a distributing plant for Class I use, this further reduces the total pool value. Thus, shipments from outlying supply plants to distributing plants should be made only when such shipments are necessary to meet the fluid milk needs of distributing plants.

Therefore, the limitations on location adjustment credits proposed by AMP are adopted. These provisions limit the amount of location adjustment credits to the transferee-plant's Class I sales that remain after subtracting receipts of milk from producers, cooperative bulk tank handlers, and packaged fluid milk products from other pool plants. Unnecessary transfers are further discouraged by the provision which gives priority in receiving credits to transferor-plants located nearest the transferee-plant. The adopted location adjustment provisions complement the zone price structure as a means of encouraging the movement of bulk fluid milk products to centers of demand for Class I use. However, the provisions will not give price credits to cover unnecessary hauling of milk between pool plants for other than Class I use.

Class III price. The Class III price should be the basic formula price for the month, as proposed by the order proponent.

Reserve milk disposed of in manufactured product uses should be priced at a level that will result in the orderly disposition of all excess supplies. Establishment of a price too high to clear the market of milk excess to fluid requirements would interfere with the orderly marketing of milk for both processors and producers. Fixing a price too low would encourage handlers to associate additional supplies with the market simply to obtain low-cost milk for manufacturing uses.

The Minnesota-Wisconsin price is the best available indicator of the value of milk used in butter, nonfat dry milk, and cheese, which are usually the last-resort uses for surplus milk. The M–W price is an average of the prices being paid by processors of these products who are meeting the competitive test of the unregulated marketplace. Use of the M–W pay price series for the Alabama-West Florida market will provide consistency between this order and other Federal order markets which also use the M–W price series as the basic formula price for pricing Class III milk. In addition, it achieves parity between regulated and unregulated plants since it provides the regulated manufacturer with essentially the same margin for processing as is experienced in the unregulated market.

Class II price. The price for Class II milk should be the basic formula price for the month, plus 10 cents. This price level, which was proposed by the order proponents, will obtain for producers some extra return for producer milk used in Class II products above its value in other manufactured dairy products.

Producers should be compensated for making high-quality milk available to handlers on a steady basis for use in Class II products. Experience in Federal orders throughout the country has shown that milk used in Class II can be priced somewhat higher than the Minnesota-Wisconsin price without impairing the market for producer milk. A 10-cent differential, as proposed, together with the Class I differential, will help to insure producers of a uniform price which will compensate them for the production of a steady supply of high-quality milk.

The order should not provide for advance Class II milk pricing as proposed by handlers. Under that proposal, the Class II price each month would be based on the Minnesota-Wisconsin price for the second preceding month. The proposal was supported on the basis that handlers are disadvantaged if they do not know the

raw product cost before they price and sell finished Class II milk products. The handler witness who testified on the proposal urged that it be adopted on the basis of evidence presented at the hearing.

At the hearing, the order proponent's spokesman stated a concern that the Class II price provisions of a new order for the Alabama-West Florida area should be the same as in surrounding markets to the east, north, and west. These orders are among a group of 29 orders that were involved in litigation concerning a denial of advance Class II pricing at the time uniform classification provisions were adopted for these orders in 1974. At the time that the hearing was being held on the Alabama-West Florida order, handlers in other areas were being invited to submit proposals for consideration at a contemplated hearing related to the pricing of Class II milk in the 29 orders. Thus, there was an expectation in the industry that a hearing would be held to consider the advance Class II pricing issue for this group of markets.

The proponent cooperative's spokesman at the hearing on this new order expressed a desire that the findings from any such hearing for the 29 markets be applied to the consideration of Class II pricing for the proposed Alabama-West Florida order.

Dairymen, Inc., also indicated support for the concept of advance Class II pricing, but opposed adoption of the handler proposal. The Association did not want a Class II pricing formula for the new order that would differ from what might result from any hearing on this issue for the 29 markets. DI held the view, reiterated in its brief, that it would be better to have an additional hearing on that issue in this market after a decision had been issued for the 29 markets.

In its brief, AMP also stated support for advanced Class II pricing in principle, but urged adoption of its proposed Class II price provisions rather than the handlers' proposal.

Advance Class II pricing should not be adopted on the basis of the record in this proceeding. The record indicates that the parties in this proceeding agree in principle that the Class II price should be announced prior to the month to which the price applies. Moreover, there also is evident a strong desire for alignment of provisions with surrounding orders. However, it is not possible to achieve both ends in this proceeding under the circumstances involved in the Class II pricing issue. It is noted that a hearing was held on proposals to change the announcement procedures for Class I and Class II prices in the 29 markets, but the proceeding was limited to those 29 orders.[6] Therefore, the Department cannot incorporate into this proceeding the evidence and findings that arise out of the 29-market proceeding. Moreover, the procedure adopted for the 29 markets for announcing Class II prices differs considerably from the procedure proposed by handlers for the new order. Accordingly, the Alabama-West Florida order should provide that the Class II price be determined as proposed by AMP. Any coordination of the Class II price provisions with other orders should be on the basis of another hearing.

Butterfat differential. The order should have a producer butterfat differential equal to .115 times the average wholesale price of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. This differential was proposed by AMP and is common to most other orders.

A butterfat differential reflects the incremental value of milk containing more or less butterfat than the standard announced level. Weighted average and uniform prices under the order will be announced for milk containing 3.5 percent butterfat. Milk containing less than 3.5 percent butterfat will be worth less than the 3.5 percent price, while milk testing above 3.5 percent will be worth more than the announced price. This adjustment will insure equitable payments reflecting such variations in butterfat content of milk delivered by individual producers.

The butterfat differential adopted herein is the same as provided in a decision to adopt uniform classification provisions in 39 markets (this decision has previously been noticed). Since the classification provisions of that decision are adopted herein, it is appropriate to provide also for the same butterfat differential. This is clearly in line with proponent cooperative's intent in this regard.

Use of equivalent prices. If for any reason a price or pricing constituent needed by the market administrator, in administering the order is not available, the market administrator is authorized by the order to use an equivalent price or pricing constituent as determined by the Secretary. Including such provision in the order will leave no uncertainty with respect to the procedure to be followed in the absence of any data customarily used and thereby will prevent interruption in the operation of the order.

(d) *Distribution of proceeds to producers.* Marketwide pooling of producer returns should be provided in the order as the means of distributing among producers the proceeds from the sale of their milk. Such pooling method will assure each producer supplying the market a proportionate share of the market's total Class I sales.

Record evidence indicates that 21 fluid milk bottling plants will most likely qualify for pooling under the new order. Most of these plants are primarily fluid milk operations with apparently high levels of Class I utilization. However, the record also indicates that three of these plants conduct significant by-product operations in conjunction with their fluid milk bottling operations. Because of this, the Class I utilization will vary somewhat from plant to plant and from month to month. For instance, the handler operating a distributing plant at Gadsden, Alabama, indicated that such plant's Class I utilization ranged from a low of about 70 percent to a high of 88 percent. Hence, while most of the plants in the market are primarily fluid bottling operations and handle little or no surplus milk, others utilize varying proportions of their supplies for manufacturing purposes. Under these conditions, a marketwide pool will facilitate the orderly marketing of producer milk by removing disruptive competition by producers for the high Class I use outlets. Under individual handler pooling, the type of operations conducted at a plant would be a determining factor in the price the plant could pay its producers compared to other plants.

A marketwide pool also will make it possible for producer associations and pool plant operators to divert any weekly or seasonal reserves of milk to nonpool plants and maintain continuous producer milk status for such dairy farmers if their milk is needed to fulfill the year-round requirements of the market. This pooling technique will assist further in apportioning among all producers the lower returns from reserve milk in excess of the market's fluid requirements. In the absence of marketwide pooling, this burden would vary by individual plants and groups of producers.

A marketwide pool thereby will contribute to market stability and the maintenance of an adequate and dependable supply of producer milk at reasonable prices.

Computation of uniform price. A key feature of marketwide pooling is the computation of prices to pay producers.

[6] Official notice is taken of the Assistant Secretary's decision, Docket Numbers AO-10-A54, et al., issued July 8, 1981 (46 FR 36151).

Under the order adopted herein, which includes a seasonal base-excess plan, a weighted average price would be computed each month. During the months of August through February, the weighted average price would be the uniform price and would be used to pay producers. Essentially, such price is the weighted average value of all of the milk in the pool. It would be computed by adding together the classified use value (or total pool obligation) of all the handlers in the market. This total value is then divided by the amount of milk in the pool to arrive at a "uniform price" for producers.

In the months of March through July, uniform prices for base and excess milk would be computed by the market administrator. During each of these months, each producer would be paid on the basis of the producer's deliveries of base and excess milk. The following findings on the base-excess plan describe the computation of the uniform prices for base and excess milk and the computation of an individual producer's base.

In order to compute the uniform price or prices the market administrator must first receive a report of receipts and utilization from each of the handlers in the pool.

Under the proponent cooperative's proposed order, handler reports of receipts and utilization would have to be postmarked on or before the 5th day after the end of each month or be delivered in person not later than the 7th day of each month. A witness for the cooperative contended that such reporting dates were needed to provide the market administrator with sufficient lead time to receive all of the reports, compute the marketwide pool and announce the uniform price or prices by the 11th day of each month.

A spokesman representing five handlers who would be fully regulated under the proposed order stated that the dates included in the proposed order would not provide handlers sufficient time to accumulate the data necessary to file their reports of receipts and utilization. As an alternative, the handlers proposed that such reports be mailed by the 7th of the month instead of the 5th or delivered in person by the 9th day rather than the 7th as proponent suggested.

In support of the handlers' proposals, the spokesman testified that many handlers in the proposed area have one or more branch sales offices located in cities considerable distance from the office where the reports are filed. He stated that it takes considerable time to accumulate the sales information and transmit it to a central location from which the information for such report will be accumulated and submitted to the market administrator. He also testified that a mailing deadline of the 5th would create an impossible situation for handlers in certain months considering how the weekends and holidays fall. He also stated that delivery in person would be costly and time-consuming for distant handlers who failed to meet the 5th of the month mailing deadline.

The order should provide that a handler's report of receipts and utilization is due on or before the 7th after the end of each month. Based on the evidence in this proceeding, any such report mailed on the 7th by a handler who is expected to be subject to the new order should be received by the market administrator within two days. Such timing will provide the market administrator with sufficient time to receive the reports, review and correct them for obvious errors, compute each handler's value of milk at classified prices, compute the uniform price or prices, and announce such price or prices by the 11th day of the month.

The order should not specify a different due date if the report of receipts and utilization is delivered in person. Accordingly, such reports shall be considered to be made on time if they are postmarked on or before the date specified in the order. If a handler elects to hand-deliver the report, it must be so delivered to the market administrator not later than the due date.

Allowing handlers one full week to accumulate and submit their monthly reports of receipts and utilization will maximize the number of work days provided for the office staff to prepare such reports. For instance, if reports were due by the 7th, handlers normally would have a minimum of five work days to accumulate, prepare and mail their reports; otherwise, they could have as few as three days to get their information assembled and in the mail with a due date of the 5th.

The five handlers also proposed that the due dates of the 7th and the 20th for reports of base milk by handlers (on an aggregate and individual producer basis) be postmark dates. The order submitted by the proponent cooperative did not indicate whether the due dates for such reports were receipt or postmark dates. However, since all reports postmarked on or before the due date specified in the order will be considered to have been made on time, no change in the proposed language is needed and the intentions of handlers in this regard will be accommodated.

All of the other dates (for reports, price announcements, and payments) specified in the order should be adopted as they were proposed by the proponent cooperative. It should be noted that the Georgia Federal milk order provides the same sequence of due dates for such activities as are adopted herein. The Georgia marketing area is very similar to the marketing area defined herein, essentially statewide. Like this market, it has several key metropolitan areas and the remainder of the area is predominately rural. There is no reason to believe that the same sequence of dates would not provide adequate timing under this new program.

Also, it should be noted that the dates for reports and payments adopted herein are similar to those provided in other Federal orders in the Southeast which are nearby and adjacent to this marketing area. Under the arrangement provided herein, handlers under the new order will be meeting about the same deadlines with respect to these reporting functions as handlers under nearby orders. Likewise, producers covered by this order will receive their payments at about the same time as producers located in the same general area but who are covered under other Federal orders.

Producer-settlement fund. Marketwide pooling requires the use of an equalization (producer-settlement) fund which enables all handlers in the market to pay the minimum uniform price or prices to their producers.

Payments into the producer-settlement fund would be made each month by each handler whose total classified use value of milk exceeds the value of his milk at the uniform price or prices. Monthly payments out of the producer-settlement fund would be made to each handler whose use value is below the value of milk at the uniform price or prices for the market. This transfer of funds enables handlers with a use value below the average for the market to pay their producers the same uniform price or prices as handlers whose Class I utilization exceeds the market average.

As adopted herein, payments by handlers into the producer-settlement fund would be due by the 12th day of each month so that the market administrator could make payments out of the producer-settlement fund by the 13th day of each month.

Such timing will enable the market administrator to receive the money in the fund and make the payments out of the fund each month at the earliest feasible date. In the event that the balance in the producer-settlement fund on the 13th is insufficient to make the required payments out of the fund, the market administrator would reduce

uniformly such payments. However, the market administrator would complete such payments to handlers as soon as the necessary funds become available.

The payment schedule adopted herein following the announcement of the uniform price or prices has no slack. No one suggested, however, that a longer time be provided to accomplish these transactions. The primary concern of all interested parties in this regard at the hearing was that payments to producers not be delayed any longer than is absolutely necessary. The time schedule adopted herein recognizes the desires of interested parties in the market by providing minimal, but generally adequate transaction time between the filing of reports by handlers and the payment of individual producers to accomplish the necessary functions involved in marketwide pooling. It will require the cooperation of all handlers in the market to work properly. If problems in this regard develop, the issue could be explored at a future hearing.

Payments to producers and cooperative associations. Each handler under the order should pay each producer for milk received from such producer, and for which payment is not made to a cooperative, at not less than the applicable uniform price or prices. Provision also should be made for partial payments for milk received during the first half of the month.

Under the payment provisions adopted herein, a handler would be required to make a partial payment to producers who had not discontinued delivery of milk to such handler prior to the 25th day of the month for their producer milk deliveries during the first 15 day of the month. Such payment would be by the last day of the month and would be at not less than the Class III price for the preceding month or 90 percent of the preceding month's weighted average price, whichever is higher. Proper deductions authorized in writing by the producer could be deducted from the partial payment due such dairy farmer. If a producer discontinued shipping milk to a handler prior to the 25th day of any month or if a producer had no established base upon which to receive payments under the base-excess plan during March through July, the applicable rate for making partial payments would be the Class III price for the preceding month.

The order proposed by the proponent cooperative would provide that producers without bases be paid a partial payment for their producer milk deliveries during the first 15 days of the month at the same rate as producers who had established bases. This rate would be the higher of the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month. Paying producers who have no base and thus have only excess milk deliveries at the higher of these two suggested rates during the adopted base paying months of March through July could result in overpayments to such dairy farmers because the uniform price for excess milk would essentially be the Class III price. A partial payment for a producer's excess milk deliveries at 90 percent of the weighted average price for the preceding month could exceed the value of the milk at the uniform price for excess milk. The hearing notice included a proposal by five handlers to limit the partial payment to producers without bases in these months to the Class III price in the preceding month. Such a limit is appropriate for the foregoing reason and is incorporated in the partial payment provisions of the Alabama-West Florida order.

A similar overpayment problem could occur under the partial payment provisions proposed by the order proponent if a producer discontinues delivering milk to a handler shortly after the 15th day of the month. The order proponent recognized this at the hearing and suggested that the higher of the Class III price for the preceding month or 90 percent of the preceding month's weighted average price be paid only to producers who have not discontinued shipping milk to such handler prior to the 25th day of the month. DI suggested that producers who had not discontinued delivering milk to the handler before the 20th day of the month should receive their partial payments on the basis of the higher rate. In its brief, AMP supported DI's suggested date of the 20th.

It is concluded that the higher partial payment rate should apply only to those producers who have not discontinued shipping to the handler prior to the 25th day of the month. Providing a cutoff date of the 25th, as originally suggested by AMP at the hearing, will provide greater assurances to handlers that they will not overpay producers for their milk deliveries during the first 15 days of the month.

As AMP proposed, handlers would be required to pay producers on or before the 15th day of the following month at the applicable uniform price or prices for milk received from such producers in the preceding month. Final settlement for all of the producer's milk in the preceding month at the uniform price or prices would recognize the partial payment and any other proper adjustments verifiable by the market administrator.

Producers whose milk is covered under the rules and regulations of the Alabama Dairy Commission have been receiving their payments from the handlers buying their milk on or about the 20th day of each month for their deliveries during the first half of the month, and the final settlement for their deliveries during the month on or about the 10th day of the following month. In this connection, four independent producers proposed that handlers be required to pay producers a partial payment on the 20th day of each month for the producer's milk deliveries during the first 15 days of the month and a final payment on the 10th day of the following month for the producer's milk deliveries in the preceding month. This was proposed so that they would not have to wait an additional 5 to 11 days to receive their partial and final payments for milk.

Final settlement by such an early date a Federal order providing for marketwide pooling would not be possible. Handlers need a reasonable amount of time each month to file their reports of receipts and utilization with the market administrator. Likewise, the market administrator must, in turn, have adequate time to process such reports and compute the uniform price or prices. Time is also required for handlers to equalize their payments through the producer-settlement fund. The dates for producer payments provided in the attached order are the earliest practicable. Moreover, they are appropriate considering the reporting, equalizing and price computations that must take place prior to the final settlement with producers. In addition, as already indicated, the producers under this proposed new Alabama-West Florida order would receive the partial and final payments for their milk deliveries on or about the same date as other producers located in the same general area but covered other Federal orders.

In the event a handler has not received from the market administrator the full producer-settlement fund payment by the date such handler is required to pay producers, the handler may reduce the payments to producers on a pro rata basis. Such reduction should not exceed the amount of the underpayment. The handler would be required to complete the producer payments on the next date for making such payments following the receipt of the balance due from the market administrator.

Provision also is made in the attached order for a cooperative association to receive payment from handlers for milk of producers who elect to market their milk through such association. Providing for a cooperative association to collect payments due individual producers who have authorized the cooperative to collect such payments on their behalf will permit the cooperative association to reblend the proceeds from the sale of such milk, as authorized by the Act. Also, it will facilitate the cooperative's movement of milk among pool plants and disposal of reserve milk supplies to other plants for manufacturing use.

As provided in the attached order, each handler upon request should pay cooperatives the full amount due for producers' milk in lieu of payments to individual producers. Both the partial and final payments to a cooperative association should be made at least 1 day prior to the date payments are due to individual producers. This will enable cooperative associations to pay the producers for whom they market milk on the same day other producers supplying the market are paid.

The proposed order would have permitted cooperatives to collect payments only for the producer milk of its members. However, since proponent suggested that a cooperative could be a handler on milk of producers who are not members of such cooperative in addition to the milk of members, the association should be permitted to collect payments with respect to the milk of nonmember producers who have authorized the cooperative to collect such payments Such a payment procedure is appropriate in that it complements the treatment afforded the milk of producers for which the cooperative may be the handler. Accordingly, the new order will permit cooperatives to collect the payments due individual producers (members and other producers) for their producer milk deliveries.

In connection with providing for a cooperative to collect lump-sum payments due the individual producers, the proposed order included a provision that would require a written promise by a cooperative to reimburse the handler for the amount of any actual loss incurred by such handler because of an improper claim by the association. The order proponent testified that this provision was proposed to prevent a handler from paying for a producer's milk twice. He pointed out that if a producer's contact with the cooperative was terminated without informing the handler buying milk from such dairy farmer, and the handler pays the cooperative, a double payment on the milk could result. Since the producer would not be a member of the cooperative, the handler also would be obligated under the order to pay the individual producer for such milk. Under the cooperative's proposal, the association would be required to reimburse the handler for the amount of money the cooperative collected for a producer who had terminated a membership contract with the association.

The proposal thus was presented as providing some basis towards resolution of disputes that concern whether or not a producer is a member of a cooperative. The market administrator may make a determination as to who is marketing a producer's milk. However, except to the extent that a contract raises questions concerning qualification under the Capper-Volstead Act, disputes involving producer contracts with a cooperative association are not a Federal order concern. There are other procedures available to the parties at interest in the market to resolve such disputes. Since the record does not provide any other evidence that such a provision is essential, the new order need not include such a provision.

The proposed order did not specify a payment obligation on milk delivered to a pool plant by a cooperative association acting as a bulk tank handler. To be sure that all aspects of payments for producer milk are covered, the order should specify that pool plant operators shall pay a cooperative bulk tank handler at the uniform price or prices for the milk received from producers who have authorized the cooperative to collect payments for their milk. If such milk is paid for by the pool plant operator at the uniform price or prices, accounting for the milk under the order will be simplified considerably. This method of payment will facilitate any adjustment required when audit by the market administrator discloses an error in classification.

Payments to and from the producer-settlement fund for milk delivered to a pool plant by a cooperative bulk tank handler will be made directly between the pool plant operator and the market administrator. This procedure will place the responsibility for accounting for such milk and for its payment directly on the pool plant operator who processes the milk. If settlement were made through the cooperative association, i.e., when a pool plant operator settles with the cooperative at class prices and the cooperative pays into or collects from the producer-settlement fund, an unnecessary third party is entered into the transaction. By eliminating the cooperative as an intermediary between the pool plant operator and the market administrator with respect to transactions involving the producer-settlement fund, problems of financial responsibility, enforcement and subsequent audit adjustments will be greatly reduced.

For the foregoing reasons, the attached order would require a pool plant operator to pay the cooperative at least one day prior to the last day of the month for milk delivered to such plant during the first 15 days of the month by a cooperative bulk tank handler. The same partial payment rate that handlers pay individual producers would be used by handlers to make partial payments to cooperatives.

By the 14th day of the following month, a pool plant operator would be required to make final settlement with the cooperative for the producer milk delivered to such plant in the preceding month by the cooperative as a bulk tank handler at not less than the appropriate uniform price or prices.

The attached proposed order provides that at the time final settlement is made for milk received from producers during the month, the handler is required to furnish each producer (or cooperative association) a supporting statement. This statement would indicate the month and identity of the producer, the daily and total pounds and average butterfat content of producer milk received from the producer, the minimum rate of payment required under the order, the rate used if it is other than the minimum rate, the amount and nature of any deductions, and the net amount of payment to such producer or cooperative.

Base and excess plan. A seasonal "base and excess" plan should be incorporated in the new order.

The purpose of a base-excess plan is to provide an incentive for producers to even out their milk production throughout the year, i.e., to encourage production in the months of seasonally low production and discourage excess production in the months of seasonally high production.

Associated Milk Producers proposed that a seasonal base-excess plan be used to distribute to producers the returns from the sale of their milk. In support of its base plan proposal, a witness testified that dairy farmers supplying the Alabama market are accustomed to base plans because they have been operating under some type of base or quota plan for at least 20 years. Producers in Alabama previously were

covered by a quota plan under the Alabama Dairy Commission, which was declared illegal by the U.S. Fifth Circuit Court of Appeals in New Orleans. After the quota regulations were struck down, the cooperative operated a similar plan for its members. The cooperative indicated that it was using a 12-month base plan, which was similar to the quota plan, to pay its members at the time of the hearing. The witness also stated that the cooperative was shifting to the seasonal base plan the association was proposing for adoption in the new Alabama-West Florida order on August 1, 1980. He further testified that in his opinion, the proposed market's favorable seasonal production pattern primarily was the result of the existence of some type of base allocation program that encouraged more milk to be produced when fluid sales were high and discouraged excess milk production during the high milk production season.

Dairymen, Inc. (DI), supported the adoption of the seasonal base-excess plan proposed by AMP and essentially for the same reason, i.e., to maintain the market's favorable seasonal production pattern. A witness for DI testified that the cooperative operates a similar seasonal base plan for the members in the Alabama District of its Nashville Division.

At least one proprietary handler in Alabama also was operating a seasonal base and excess plan for its independent producers at the time of the hearing. A producer who sells his milk to such handler testified that he is paid for his milk deliveries in certain months in accordance with the terms and conditions of that plan. He stated that the base plan encourages him to produce more milk in the fall months when milk supplies in Alabama generally are short relative to the market's Class I needs. In this opinion, the base plan provides producers an incentive to tailor their feeding and breeding programs to achieve more level milk production throughout the year by encouraging more milk to be produced in the fall and less in the spring, thereby maximizing their returns under the order.

Southern Milk Sales (SMS) opposed the adoption of a base plan for the Alabama-West Florida market. A witness for the cooperative stated that the blend price for this high Class I utilization market would provide adequate incentives for producers to adjust their production patterns to receive the greatest returns for the sale of their milk, i.e., new producers will enter the market in the fall and established producers will gear their herd management toward fall production when such prices are high.

A base-excess plan should be included for the proposed Alabama-West Florida market. The Alabama market has developed a good seasonal milk production pattern over the years. Nevertheless, milk production for the market does fluctuate seasonally with supplies generally increasing in the spring and declining in the fall. The base plan will provide a means of encouraging a level seasonal production pattern so that the good seasonal coordination between milk supplies and Class I sales will be maintained.

The record indicates that some producers in Alabama have attempted to gear their feeding and breeding programs toward more milk production in the fall months of September and October when Alabama experiences a period of extreme heat and humidity. Because of the heat stress conditions during this time of year, milk production is a little more difficult for dairy farmers in Alabama than in some other areas of the country. To maintain their production level in these months, dairy farmers must manage their herds to bring more cows into production at this time. According to testimony presented at the hearing, a cow that is freshened in the high stress period (September or October) will never produce as much milk, due to the high temperatures, as a cow that is freshened in the spring when cooler temperatures generally prevail. In addition, cows will graze less in the early fall months as pasture conditions deteriorate because of the hot weather than they do in the spring.

Hence, to achieve and maintain level production throughout the year, producers incur certain economic costs by managing their herds in this manner as opposed to what might be the more natural cycle of cows freshening and producing milk for the Alabama-West Florida market.

Milk production and Class I sales have been in fairly good balance in the proposed market, although it is noted that much of the market's supply originates on farms located outside the marketing area. Data gathered by the Alabama Dairy Commission were presented at the hearing to indicate the market's favorable production-sales relationship. they indicated some seasonal fluctuations in production and Class I sales. For example, on the basis of 4-year (1976–79) averages, the relationship between the daily average producer milk supply and the daily average Class I sales ranged from a low of 109 percent in November to a high during the flush milk production months of 117 percent in March.

These data indicate a very small seasonal variation in milk production and Class I sales. However, it should be noted that not all of the milk diverted off the market by Alabama licensed handlers has been priced and pooled under the regulations of the Alabama Dairy Commission, which tends to indicate a more favorable production-sales pattern than would be expected under the Federal order.

If there is a large seasonal variation in milk production and Class I sales, serious marketing problems could be created for producers and especially for cooperatives supplying the market. These problems are centered on obtaining adequate supplies of milk for handlers' fluid needs in the months when milk production is short relative to the market's fluid needs and disposing of excess supplies during the months when milk production is more than adequate to meet the market's Class I needs.

For example, if milk production declines too much in the months when the fluid demand is high (September-January), the cooperative likely would need to import additional milk from beyond the local supply area to meet the market's fluid needs. Encouraging producers to supply the market's fluid needs in the short supply season would reduce the cost associated with purchasing milk produced in distant locations and transporting it to the market to fulfill the Class I demand of plants and consumers in this market. Such movements could involve considerable distances and therefore would be more costly in the future if fuel prices continue to rise.

Conversely, if milk production increases to much in the months when the fluid demand is low, the disposition of milk that is excess to the market's fluid needs would become a burden for producers and cooperatives because there is limited manufacturing capacity in the local area. There are only two relatively small plants in Alabama (other than soft-product plants) that manufacture milk. Hence, if excess milk supplies are generated, such milk must be transported to manufacturing plants located considerable distance from the major consumption centers in Alabama. The costs of such transportation are borne primarily by cooperatives.

Thus, producers, handlers and consumers would benefit from a low variation in milk production by minimizing the costs of obtaining additional supplies in the short production months and through reduced

costs of marketing excess milk production associated with the fluid needs in the flush production months. In view of the foregoing, adoption of a base-excess plan for the new Alabama-West Florida market is appropriate for the purpose of maintaining reasonably level milk production throughout the year.

This issue concerns essentially just producers in that it deals with how the pooled value of milk would be divided among the producers supplying the Alabama-West Florida market. In such case, the views of producers are an important consideration. The record in this proceeding clearly shows that a majority of producers who will be supplying the new market prefer a base-excess plan as a means of distributing the returns for milk among producers.

The base-excess plan adopted in this decision is very similar to that proposed by the order proponent. Each producer would be assigned a base computed by dividing the producer's total pounds of producer milk in September through January (the base-forming period) by the number of days' production represented in such producer milk deliveries or by 120, whichever is more. A single delivery by a producer on every-other-day delivery would be considered two days' production in computing a base.

If a producer operates more than one dairy farm, a separate base should be computed for each such dairy farm. The proposed base-excess plan included in the hearing notice did not cover this point. However, the witness for the proponent of the order testified that in such cases, he preferred that a separate base be computed for each dairy farm of a producer. The order would provide a guideline to cover this type of situation.

As proposed by AMP, the months of September through January should be the base-forming period. It is during these months that milk production tends to be low relative to Class I needs. In order to establish a production level for which they will receive payment at the higher uniform price for base milk in the base-paying months, producers will tend to establish a higher level of production in the base-forming months. The uniform (weighted average) price would be the minimum order price payable to producers for producer milk delivered during the base-forming months of September through January. Such price would also be payable to producers in the months of August and February which would be neither base-forming nor base-paying months.

The base-paying months should be March through July, as proposed. These months form a period when milk production generally is high and Class I utilization of milk is low. Thus, it is a period when the base plan should discourage excessive production. This would occur because during the base-paying months, payments to producers would reflect a lower price for any excess producer milk delivered to the market. Thus, the operation of the base-excess plan should serve to maintain, or perhaps improve, the seasonal production pattern that producers desire.

"Base milk" would be the producer milk of a producer in each month of March through July that is not in excess of the producer's base multiplied by the number of days in the month. "Excess milk" would be the producer milk of a producer in each month of March through July in excess of the producer's base milk for the month. Excess milk would include all of a producer's milk deliveries during March through July if such dairy farmer has no base.

The market administrator each year would compute a new base for each producer and, by February 28, would notify each producer and the handler receiving the milk from such dairy farmer of the producer's base. The market administrator would also notify a cooperative, if requested, of the amount of base assigned to each producer-member.

In computing the uniform prices for base and excess milk, Class III producer milk would be assigned to excess milk first. If Class III producer milk in the market exceeds the pounds of excess milk deliveries by producers, the uniform price for excess milk will be the Class III price. In such case, the additional value for the remaining Class III producer milk as well as the values for Class I and Class II producer milk will be reflected in the uniform price for base milk.

As proposed by producers, the uniform price for excess milk should not be subject to a location adjustment. Since excess milk would represent basically producer milk classified in Class III (milk for manufacturing uses) to which no location adjustment is applicable, the uniform price for excess milk should not be subject to a location adjustment. There is essentially no difference in the location value of milk for Class III uses. The Class III price under the Alabama-West Florida order and other Federal milk orders is equal to the average price per hundredweight for the month of manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin. If a location adjustment were applied to the uniform price for excess milk, it could result in applying an excess price to the producer milk at various plant locations that is less than the value of manufacturing grade milk delivered to those same plant locations.

A producer generally would deliver milk continuously throughout the base-forming period. However, because of various circumstances (e.g., storm damage at the farm or to roads, temporary suspension of a health permit or temporary loss of market when cut off by a buying handler), a producer may be off the market for a limited number of days during the base-forming period. In recognition of this, it was proposed that producer who delivered at least 120 days' production during the base-forming period would have average daily deliveries computed on the same basis as a producer who delivered continuously throughout the entire period (by dividing the total producer milk deliveries by such dairy farmer during the five-month period by the number of days' production represented in such deliveries).

The requirement that a producer supply the market in the base-forming months in order to earn a base provides an incentive to ship to the Alabama-West Florida market instead of to other markets in the months when production is low relative to the demand for Class I milk. A producer who ships at least 120 days' production during the five-month base-forming period can reasonably be considered as being fully associated with the market. A producer who delivered less than 120 days' production should have a base determined by dividing total production in the base forming period by 120. Thus, a producer who may have been supplying the Class I needs of another market for a substantial part of the base-forming period would receive a base that reflects the producer's contribution toward supplying the fluid needs of the Alabama-West Florida market in such period.

The hearing notice included a proposal by four independent dairy farmers requiring that a producer ship milk at least 60 days during the base-forming period to establish a base. At the hearing, a spokesman for the four farmers stated that they had decided to withdraw the proposal from consideration. There was no other testimony on the proposal.

The application of the base-excess plan adopted herein to new producers is essentially that proposed by AMP. One type of new producer coming onto the market in the base-paying period could be dairy farmers who had supplied the fluid milk needs of another order market or an unregulated market in the base-forming period. Milk produced on their farms in the base-paying months that

becomes associated with the Alabama-West Florida market would represent production that is surplus to the Class I needs of the market with which they had been previously associated. It is appropriate, therefore, as provided herein, that in the base-paying months producers should receive only the excess milk price for deliveries of such milk under the Alabama-West Florida order.

In other instances, persons who have not previously supplied a Class I market may become new producers on the new Alabama-West Florida market. Included in this category would be dairy farmers who had previously been shipping manufacturing grade milk and persons starting new dairy farm operations. Before coming onto the market as a new producer, such a person would be expected to have anticipated in advance whether to begin shipping during the base-paying months of March through July or in any of the other seven months of the year. If the choice is to begin delivering as a new producer in one of the five base-paying months, presumably that decision would be made in recognition of the fact that the uniform price for excess milk would be received for milk delivered to the market in those months by producers without bases.

In some instances a "natural disaster" may cause a producer to suffer a significantly reduced rate of production or force such person to discontinue temporarily the production of milk. Unless provision is made in the order to give consideration to such occurrences in computing a producer's base, the producer would suffer an undue hardship. Thus, the order should specify certain conditions under which relief may be granted to a producer whose production was adversely affected in the base-forming period as a result of an occurrence beyond the control of such dairy farmer.

This can be achieved by providing that the base assigned to a person who was a producer within the preceding base-forming period may be increased to the producer's average daily producer milk deliveries in the month immediately preceding the month during which production was adversely affected by an allowable "hardship" condition. Such relief would be granted only after the producer submitted to the market administrator by March 1 a written statement that established to the satisfaction of the market administrator that the amount of milk produced on such dairy farmer's farm in the immediately preceding base-forming period was substantially reduced because of a condition beyond the producer's control, which resulted from:

(1) Loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd, as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

The conditions under which hardhip relief (in the form of an increased base) may be granted a producer encompass most natural disasters that could result in reduced production or in the temporary discontinuance of production on the producer's dairy farm. Such a standard will provide the market administrator the guidance necessary for applying the provision in an objective manner.

The base-plan provisions proposed by AMP would provide such hardship relief by assigning to the producer a base equal to 90 percent of the producer's average daily producer milk deliveries in the month immediately preceding the month during which the hardship occurred. The record is unclear as to the exact purpose of using the month specified and reducing the deliveries by 10 percent. Presumably the proposal attempts to provide a reasonable basis for establishing a base when a disaster has adversely affected a producer's output during the base-forming period.

However, an analysis of daily average milk deliveries by dairy farmer members of AMP during the base-forming months in 1978–79 reveals that daily average deliveries increased an average of 2.8 percent from month to month during August through December. Thus, computing such a base by allowing only 90 percent of a producer's deliveries during the preceding month most likely would provide a base smaller than the producer would have had absent the hardship condition. Based on conditions in this market, the daily average deliveries for the month preceding a disaster is appropriate for computing a base under hardship conditions.

If a dairy farmer's milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period, a base should be assigned to such person in the same manner as if the dairy farmer had been a producer during such entire base-forming period. Such base would be calculated from all of the dairy farmer's deliveries that would have been producer milk if the nonpool plant had been a pool plant during such September through January period.

The order provisions covering the situation described in the preceding paragraph are modified somewhat from what was proposed by the order proponent. The provisions adopted herein clearly specify which base-forming period would be used if a nonpool plant became a pool plant after the beginning of the base-forming period. They also specifically identify which producer deliveries would count toward establishing a base for such dairy farmer.

To acquire pool status under the order a plant must dispose of a certain percentage of its receipts on routes in the marketing area or to other pool plants. Hence, when a nonpool plant becomes a pool plant it will most likely add Class I sales to the pool relative to such sales in prior periods when it was a nonpool plant. It is appropriate, therefore, that those dairy farmers who had been supplying the plant have bases computed for them according to their deliveries to the plant in the base-forming period.

Bases so assigned to such producers should not be transferable. Such producers would be receiving bases without having incurred any of the economic costs that the market's regular producers incurred in adjusting their operations to achieve more level production. Thus, any income received from the transfer of such bases in essence would be windfall gains, which should not be permitted.

The base earned by an individual producer who supplied the market in the preceding base-forming period should be transferable. This will facilitate the transfer of property when a baseholder dies or when the farm of a baseholder is sold. It will also facilitate adjustment by those producers desiring to expand or contract their operations. However, proper safeguards should be provided so that the transfer provisions may not be exploited at the expense of producers regularly supplying the market.

The amount of a base transferred could be in its entirety or in amounts of not less than 300 pounds. These limits, which were proposed at the hearing, are administratively practicable and should be adequate under conditions in the Alabama-West Florida market.

The proposed order provisions did not specify that base may be transferred only to another dairy farmer. However, under the base plan provisions adopted herein, only a producer may establish base, and only producer milk could be base milk. Since a base is useful only to producers, only producers should be permitted to hold base. There was no testimony presented at the hearing to

indicate an intent that other persons should be permitted to hold base. Accordingly, the order provides in this regard that base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective.

Base transfers would be effective on the first day of the month following the date on which an application for transfer is received by the market administrator. However, since producers may not know their bases until February 28, they should be permitted to transfer base effective March 1 if the transfer application is received by the market administrator on or before March 15 as the order proponent suggested. Such application would be requred to be on a form approved by the market administrator and signed by a baseholder or the legal representative of the baseholder's estate and the person to whom the base is to be transferred. If a base is held jointly, it would be required that the application be signed by all joint holders or the legal representative of the estate of any deceased baseholder. These provisions would insure that there will be no misunderstanding between the parties involved concerning transfers.

The base established by a partnership may be divided between partners on any basis agreed on in writing by them if written notification of the agreed upon division, signed by each partner, is received by the market administrator prior to the first day of the month in which the division is to be effective. This will facilitate the division of the assets of a partnership that is dissolved during the base-paying period. On the other hand, it will in no way affect the total quantity of base milk in the pool, irrespective of the manner in which the division of the base is made between the partners.

Likewise, two or more individual producers who establish bases separately and decide to form a partnership should be permitted to combine their bases. Although the proposed order would not have provided this, the new order is drafted to accommodate this situation. The combination of individual bases by producers forming a partnership would not affect the quantity of base milk in the pool.

A producer who on or after March 1 transferred all or part of the base held would not be permitted to receive other base by transfer that would be applicable within the March–July period of the same year. Also, a producer who received base by transfer on or after March 1 would not be permitted to transfer a portion of the base assigned to such dairy farmer to be applicable within the March–July period of the same year, but would be permitted to transfer the entire base. Adoption of these provisions will tend to insure that the exchange of bases between producers are bona fide transfers. Absent such provisions, the transferring of bases back and forth by two or more producers throughout the base-paying period could result in unwarrantedly increasing their share of the total payments under the order for producer milk at the expense of all of the other producers.

The first base-forming period under the proposed order is expected to be September 1982 through January 1983. Complete data would be available at the end of that period to compute bases. It would be appropriate, therefore, to delay application of the base and excess payment provisions of the order until March 1, 1983.

(e) *Administrative provisions.—Charges on overdue accounts.*

The order should provide a charge on all handler obligations to the market administrator that are overdue. Such charge should be 1.5 percent per month and should apply on the first day that a payment is overdue and on the same day of each succeeding month until the obligation is paid. Payments subject to the charge would be those due the market administrator for the producer-settlement fund, order administration, marketing services, and audit adjustments.

Proponent proposed that unpaid handler obligations to the market administrator be increased 1.5 percent for each month or portion of a month that such obligation is overdue. The AMP spokesman stated that the intent of the proposal was to encourage prompt payment of handler obligations to the market administrator. The proponent's witness also testified that 18 percent was about the going annual rate for short-term (business) loans at the time of the hearing.

It is essential to the effective operation of the order that handlers make their payments to the market administrator on time. Under the marketwide pooling arrangement, it is necessary that handlers with Class I utilization higher than the market average pay part of their total use value of milk to the producer-settlement fund. Through this means, money is made available to handlers with lower than average Class I utilization so that all handlers in the market, irrespective of the way they use the milk, can pay their producers the uniform price. The success of this arrangement depends on the solvency of the producer-settlement fund.

Also, the prompt payment of amounts due the administrative and marketing service funds is essential to the performance by the market administrator of the various administrative functions prescribed by the order. Delinquent payments to these funds could impair the ability of the market administrator to carry out his duties in a timely and efficient manner.

Payment delinquency also results in an inequity among handlers. Handlers who pay late are, in effect, borrowing money from producers. In the absence of any late-payment charge that approximates the costs of borrowing money from commercial sources, handlers who are delinquent in their payments have a financial advantage relative to those handlers making timely payments.

It should be noted that late-payment charges are not a substitute for prompt payments by handlers. Those delinquent in their obligations would still be subject to legal enforcement action as authorized under the Act.

Under the provisions adopted herein, overdue handler obligations that are payable to the market administrator would be increased by 1.5 percent on the day after the due date. Any remaining unpaid portion of the original obligation would be further increased by 1.5 percent on the same date of each succeeding month until the obligation is paid. The late payment charge would apply not only to the original obligation but also to any unpaid charges previously assessed. Also, the charge should apply whether the obligation is paid 1 day late or 10 days late, and should be applicable to both fully regulated and partially regulated handlers alike.

The order need not provide that the dates when payments to the market administrator are due be moved back whenever such a due date falls on a Saturday, a Sunday, or a national holiday. A group of handlers proposed that when a payment to the market administrator is due on a Saturday, a Sunday, or a national holiday, such due date be shifted to the next day that the market administrator's office is open for business, and payments received after the due date would be considered as having been made on time if postmarked not later than the second day prior to the due date. In support of the proposal, a handler spokesman testified that the purpose of the proposal was to assure that payments made in good faith by a handler and postmarked at least two days prior to the due date would not

result in assessment of a late-payment charge.

The handlers' intent can be accomplished without adding a specific provision by making it clear that the payment due dates in the order shall be considered as having been met if the envelope bearing the payment is postmarked not later than the due date. Obviously, monies hand delivered to the market administrator by the due date would not be subject to a late payment charge. Recognizing the U.S. Postal Service postmark for payment compliance purposes should serve to alleviate the concerns addressed in the proposal. If other related problems develop, the issue could be considered at a future hearing based on actual operating experiences.

Marketing services. The new order should provide for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator, and the cost should be borne by producers for whom the services are rendered. However, any cooperative association, if approved for such activity by the Secretary, may perform such services for its producers in lieu of having the market administrator perform the services.

AMP proposed that a marketing services provision by included in the new order and that it be funded by an assessment of 7 cents per hundredweight of production to be paid by the producers for whom the market administrator performs the prescribed services. The cooperative's spokesman testified that the 7-cent rate should provide adequate funds for the market administrator to provide marketing services to nonmembers, based on an analysis of the expense of such programs in other markets. Also, he noted that the rate provided in an order is a maximum rate that can be reduced by the Secretary if experience shows that the services can be provided for a lesser amount. He stated that a marketing services provision is needed because producers who are not members of a cooperative do not have such a program provided and that such producers would benefit from such services.

Several producers who were not members of a cooperative testified in opposition to including a marketing services plan in any order adopted for the proposed marketing area. Two key points were raised in such testimony. Most felt that the 7-cent rate was excessive and would reduce their returns unnecessarily. Also, most such producers expressed the view that a marketing services program was not warranted because, to their knowledge, they had experienced few, if any, probems of inaccurate weights and tests.

One producer, however, stated that the marketing services assessment rate appeared to be quite reasonable. Also, he expressed the view that the benefits of verified weights and tests could easily exceed the cost. He did, however, state that he would prefer to have an option of whether or not to participate in the marketing services program.

Another producer, speaking for more than 50 other producers, suggested a marketing services option on a plant by plant basis. He suggested that producers shipping to a plant would have to approve participation in a marketing services program before the market administrator would verify milk weights and butterfat tests of their milk deliveries to that plant. Still another producer testified that nonmembers should be allowed to do their own verifying of weights and tests. He indicated that he planned to build his own lab for such purpose.

The record clearly discloses that within the proposed marketing area, there is no governmental or regulatory agency that regularly checks the weights and butterfat tests of dairy farmers' milk to verify that they are paid for the milk on the basis of accurate farm weights and butterfat tess. State agencies in both Alabama and Florida regularly test milk from dairy farms for butterfat content. However, such tests are not used to resolve disputes between dairy farmers and plants, or for the purpose of establishing that dairy farmers are paid for the actual quanties of milk and butterfat delivered to plants.

Accordingly, the Alabama-West Florida order should provide such services for such producers. A maximum rate of 7 cents per hundredweight appears to be a reasonable amount to assess producers to cover the expenses of conducting the program. If the marketing services program can be operated satisfactorily for less money, the Secretary may reduce the effective rate without holding a hearing.

However, the suggestion that marketing services be provided on an optional basis cannot be adopted. The Act specifies that if a marketing service provision is included in an order, it must apply to all producers under the order. Likewise, while a laboratory operated by a producer could provide the producer with a check on butterfat tests, this in not what the Act contemplates as "verification of weights, sampling, and testing of milk purchased from producers." Tests performed in a producer's own laboratory could not be recognized as adequately fulfilling the marketing services requirement. Marketing services for producers who are not members of a cooperative that provides such services must be performed by the market administrator or under the market administrator's direction.

There is a need for a marketing service program in connection with the administration of a Federal milk order for the Alabama-West Florida area. The weighing and testing of the milk of all producers is closely related to the main provisions of the order, which are the classification and pricing provisions. The latter provisions are the basis of the computation of the minimum uniform price payable to producers.

The order requires all regulated handlers to submit to the market administrator each month a report showing the total quantity of skim milk and butterfat received from producers and the utilization of such skim milk and butterfat in the three price classifications provided. To verify that a handler has reported all receipts and disposition correctly and to insure that producers receive proper payment for their deliveries, the market administrator audits each handler's operation. The quantity of skim milk and butterfat received by a handler must balance, of course, with the quantities of skim milk and butterfat in the products processed and disposed of by the handler. This requires the availability of the weight and butterfat test of each producer's deliveries.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to other provisions of the order. There are no payments to other persons on such milk. Hence, there is no need to provide the same marketing services as are provided other producers.

The other service provided, that of furnishing market information, is designed to keep the producer informed of developments that might affect such producer's price or market outlet in order that the producer may better evaluate marketing conditions. The objective of the program is to aid producers to achieve and maintain orderly marketing conditions for their milk.

In the case of producers who market their milk through a cooperative association, the Act authorizes such cooperative to perform these marketing services, and the costs of these services normally are borne by such producers through membership dues.

Expense of administration. Each handler should be required to pay to the market administrator a proportionate share of the cost of administering the order. For this purpose, a charge of 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's milk so assessed under another Federal order) is provided.

The market administrator must have sufficient funds to administer properly the terms of the order. The Act provides that the cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and dispositions of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of milk received from dairy farmers (including milk diverted to nonpool plants) and on other source milk allocated to Class I milk.

The proposed order provides that a cooperative shall be the handler on milk it delivers in tank trucks from producers' farms to pool plants of other handlers. The cooperative is the handler on such milk basically for the purpose of making payments to its individual members. For pricing purposes, however, the handlers that receive such milk at their plants would treat it the same as any other direct receipts from producers.

The market administrator must verify by audit the receipts and utilization at each pool plant whether the plant operator buys milk directly from producers or through a cooperative as a bulk tank handler. Thus, the pool plant operator receiving such milk should pay the administrative assessment on it on the same basis as for producer milk received at the plant. The cooperative bulk tank handler would be liable only for the administrative assessment on the quantity of milk picked up at producers' farms that is not received at the pool plant.

The order specifies minimum performance standards that must be met to obtain regulated status. The operator of a plant not meeting such standards (i.e., a partially regulated distributing plant) is required to either (1) make specified payments (discussed elsewhere in this decision) into the producer-settlement fund on route dispositions in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) other wise pay into such fund and/or to dairy farmers an amount not less than the classified use value of all receipts from dairy farmers computed as though such plant were a fully regulated plant.

In administering the order as it applies to partially regulated distributing plants, the market administrator incurs expenses in essentially the same manner as in applying the order to pool handlers, even though the order is not applicable to the partially regulated handler to the same extent as to fully regulated handlers. Hence, payment of the administrative assessment on the partially regulated handler's in-area sales only would reasonably constitute such handler's pro rata share of the administrative expense.

In the case of unregulated milk that enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at the regulated handler's plant are subject to verification by the market administrator. Hence, the regulated handler should be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among handlers distributing milk in the proposed marketing area. However, to avoid duplication, an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

General provisions. The Alabama-West Florida order adopted herein incorporates, by reference, certain terms, definitions, and administrative provisions that are included in Part 1000 of the Code of Federal Regulations. These provisions are common to all Federal milk orders, having been so adopted effective July 1, 1971 (36 FR 9844).

Under Part 1000, a market administrator was required to deliver a bond to the Secretary covering himself or herself and each employee designated to act in his or her stead. Pub. L. 92–310 exempted Federal employees from such bonding requirements. Hence, Part 1000 was changed so that all Federal milk orders would conform with Pub. L. 92–310. To accomplish this, on February 5, 1980 (45 FR 7777), the bonding requirements in Part 1000 were terminated.

Since Part 1000 is applicable to all Federal milk orders and was proposed for adoption under this new program, it was printed in the hearing notice for informational purposes of interested parties. As it appeared in the notice of hearing, it did not reflect the bonding change. Proponent witness testified that the cooperative intended to propose the identical general provisions for this order which are applicable to all other orders. Accordingly, the general provisions adopted in July 1971, and as changed in February 1980, should be, and hereby are incorporated by reference in this order.

The first section (§ 1000.1) states that the uniform provisions included in Part 1000 shall be a part of each Federal milk marketing order as if set forth in full in each order, except in any order where any such provision is expressly defined or modified otherwise.

The second section (§ 1000.2) includes definitions of five general terms used in all Federal milk orders: Act, Order, Department, Secretary, and Person.

The third section (§ 1000.3) deals with the designation, powers, and duties of the market administrator.

The fourth section (§ 1000.4) pertains to the continuity and separability of provisions in an individual order. For the most part, these are internal administrative rules and instructions to Department employees regarding procedures involved in the suspension, termination, or liquidation of any or all provisions of a Federal milk order.

The fifth section (§ 1000.5) describes a handler's responsibility with respect to records and facilities.

The final section (§ 1000.6) relates to the termination of obligations.

The general provisions of Part 1000 have the same intent and purpose in each Federal milk order. They have worked effectively. Adopting Part 1000 by reference for the Alabama-West Florida order will promote uniform application of these provisions, which have the same intent and purpose in all orders.

A detailed discussion of the need and basis for incorporating the general provisions in each order is contained in a decision issued by the Assistant Secretary on April 15, 1971 (36 FR 7514). Official notice was taken of this decision at the hearing held June 23–July 2, 1980, for this market. The record evidence indicates that the findings and conclusions of the 1971 decision and the statement of consideration in the 1980 termination order are equally applicable under current marketing conditions in the proposed Alabama-West Florida marketing area.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

(a) The tentative marketing agreement and the order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The proposed marketing agreement and the order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers as defined in the tentative marketing agreement and the order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1093.85 of the aforesaid tentative marketing agreement and the order.

Recommended Marketing Agreement and Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order. The following order regulating the handling of milk in the Alabama-West Florida marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

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1093.5 Distributing plant.
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1093.10 Producer-handler.
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1093.12 Producer.
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1093.60 Handler's value of milk for computing uniform price.
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Sec.

1093.72 Payments from the producer-settlement fund.
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1093.74 Butterfat differential.
1093.75 Plant location adjustments for producers and on nonpool milk.
1093.76 Payments by handler operating a partially regulated distributing plant.
1093.77 Adjustment of accounts.
1093.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1093.85 Assessment for order administration.
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1093.90 Base milk.
1093.91 Excess milk.
1093.92 Computation of daily average base for each producer.
1093.93 Base rules.
1093.94 Announcement of established bases.

Authority: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. Seq.)

Subpart—Order Regulating Handling

General Provisions

§ 1093.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1093.2 Alabama-West Florida marketing area.

The "Alabama-West Florida marketing area", hereinafter called the "marketing area", means all territory within the boundaries of the State of Alabama and the Florida counties of Escambia, Santa Rosa, Okaloosa and Walton, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

Zone 1

Alabama Counties

Cherokee, Colbert, De Kalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marshall and Morgan.

Zone 2

Alabama Counties

Bibb, Blount, Calhoun, Chambers, Chilton, Clay, Cleburne, Coosa, Cullman, Etowah, Fayette, Jefferson, Lamar, Marion, Pickens, Randolph, St. Clair, Shelby, Talladega,

Tallapoosa, Tuscaloosa, Walker and Winston.

Zone 3

Alabama Counties

Autauga, Barbour, Bullock, Butler, Choctaw, Clarke, Conecuh, Crenshaw, Dallas, Elmore, Greene, Hale, Lee, Lowndes, Macon, Marengo, Monroe, Montgomery, Perry, Pike, Russell, Sumter, Washington and Wilcox.

Zone 4

Alabama Counties

Baldwin, Coffee, Covington, Dale, Escambia, Geneva, Henry, and Mobile.

Florida Counties

Escambia, Okaloosa, Santa Rosa and Walton.

Zone 4a

Alabama County

Houston.

§ 1093.3 Route disposition.

"Route disposition" means a delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I milk.

§ 1093.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products, including filled milk, are received, processed, or packaged. Separate facilities without stationary storage tanks that are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1093.5 Distributing plant.

"Distributing plant" means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1093.6 Supply plant.

"Supply plant" means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are transferred during the month to a pool distributing plant.

§ 1093.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition, except filled milk, equal to 50 percent or more of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1093.13; and

(2) Route disposition, except filled milk, in the marketing area is at least the lesser of a daily average of 1500 pounds or 10 percent of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1093.13.

(b) A supply plant from which fluid milk products are transferred to pool distributing plants. Such transfers must equal not less than 70 percent in each of the months of September through January, and 50 percent in each of the months of February through August, of the total quantity of Grade A milk that is received during the month from dairy farmers (including producer milk diverted from the plant pursuant to § 1093.13 but excluding milk diverted to such plant) and handlers described § 1093.9(c).

(c) A plant operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month 70 percent or more of the producer milk of members of such cooperative association is delivered directly from their farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle Grade A milk.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, or such plant has automatic pooling status under such other order.

§ 1093.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant or a governmental agency plant.

(d) "Unregulated supply plant" means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or a governmental agency plant.

(e) "Governmental agency plant" means a plant operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1093.9 Handler.

"Handler" means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1093.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler of such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other plant described in § 1093.7(d); and

(g) Any person who operates an unregulated supply plant.

§ 1093.10 Producer handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than own farm production, pool plants, and other order plants;

(c) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production, pool plants, and other order plants; and

(d) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for such person's own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

§ 1093.11 [Reserved]

§ 1093.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such producer;

(2) Received by a handler described in § 1093.9(c); or

(3) Diverted from a pool plant in accordance with § 1093.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) A governmental agency plant exempt pursuant to § 1093.8(e);

(3) Any person with respect to milk produced by such person which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II of Class III utilization pursuant to § 1093.44(a)(8)(iii) and the corresponding step of § 1093.44(b); and

(4) Any person with respect to milk produced by such person which is reported as diverted to an other plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1093.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1093.9(c); or

(c) Diverted by the operator of a pool plant or a cooperative association from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) In any month of February through August, not less than four days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of September through January, not less than ten days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during any month by a cooperative association shall not exceed 30 percent of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during any month shall not exceed 30 percent of the producer milk physically received at such plant during the month;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (c) (3) and (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that will not be producer milk pursuant to paragraph (c) (3) or (4) of this section. If the handler fails to make such designation, no milk diverted by such handler shall be producer milk;

(6) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(7) The cooperative association shall designate the dairy farm deliveries that are not producer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk.

(8) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

§ 1093.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1093.40(b)(1) from any source other than producers, handlers described in § 1093.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1093.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1093.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1093.40(b)(1)) for which the handler fails to establish a disposition.

§ 1093.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or

sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1093.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1093.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1093.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of or marketing milk or milk products for its members.

Handler Reports

§ 1093.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of its pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1093.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1093.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1093.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each holder not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1093.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1093.9(a), (b), and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) Such producer's name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1093.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1093.32 Other reports.

(a) Each handler described in § 1093.9 (a), (b) and (c) shall report to the market administrator on or before the 7th day after the end of each month of March through July the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of March through July the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1093.30 and 1093.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1093.40 Classes of utilization.

Except as provided in § 1093.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1093.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is not disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition.

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1093.15; and

(6) In shrinkage assigned pursuant to § 1093.41(a) to the receipts specified in § 1093.41(a)(2) and in shrinkage specified in § 1093.41 (b) and (c).

§ 1093.41 Shrinkage.

For the purpose of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1093.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1093.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1093.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1093.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1093.44(a)(12) and the corresponding step of § 1093.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1093.44(a)(7) or the corresponding step of § 1093.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1093.44(a) (11) or (12) or the corresponding steps of § 1093.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same

category as described in paragraph (b)(1), (2), or (3) of this section.

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfer or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I subject to adjustment when such information is available.

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to the class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1093.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk of butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in such handler's report of receipts and utilization filed pursuant to § 1093.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extend possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market admininstator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determined constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfer by a handler described in § 1093.9(c) pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1093.9(c) to another handler's pool plant shall be classified pursuant to § 1093.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1093.43 General classification rules.

In determining the classification of producer milk pursuant to § 1093.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1093.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1093.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1093.40, 1093.41, and 1093.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1093.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1093.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1093.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1093.9(a) for each pool plant of the handler separately the classification of producer milk and milk received from a handler described in § 1093.9(c), by allocating the handler's receipts of skim milk and butterfat to the utilization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1093.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1093.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1093.40(b)(1) that were not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in such class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1093.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk

products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk is receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1093.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or dversions of fluid milk products to the same unregulated supply plant from whcih fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1093.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1093.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1093.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1093.9(c) in each class shall be the

combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1093.45 Market Administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1093.44(a)(12) and the corresponding step of § 1093.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1093.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association that was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1093.50 Class prices.

Subject to the provisions of § 1093.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* For the first 18 months this order is fully effective, the Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1093.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1093.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1093.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (6) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1093.2, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1	Minus 20 cents.
Zone 2	No adjustment.
Zone 3	Plus 15 cents.
Zone 4	Plus 37 cents.
Zone 4a	Plus 20 cents.

(2) For a plant located in any of the Tennessee and Georgia counties listed below, the adjustment shall be minus 20 cents:

Tennessee Counties

Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union and Washington.

Georgia Counties

Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield.

(3) For a plant located in any of the Tennessee and Kentucky counties listed below or in the Fort Campbell military reservation, the adjustment shall be minus 45 cents;

Tennessee Counties

Bedford, Cannon, Cheatham, Clay, Coffee, Davidson, DeKalb, Dickson, Fentress, Franklin, Giles, Grundy, Hickman, Houston, Humphreys, Jackson, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Overton, Perry, Pickett, Putnam, Robertson, Rutherford, Smith, Stewart, Sumner, Trousdale, Van Buren, Warren, Wayne, White, Williamson, and Wilson.

Kentucky Counties

Allen, Barren, Metcalfe, Monroe, Simpson, and Warren.

(4) For a plant located outside the marketing area and north of a line extending through the northern boundaries of Georgia, Alabama and Mississippi, and at a location not included in paragraphs (a) (2) and (3) of this section, the adjustment shall be minus 20 cents. Such minus adjustment shall be increased 1.5 cents for each 10 miles or fraction thereof (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the nearer of the city halls in Florence or Huntsville, Alabama;

(5) For a plant located outside the marketing area and south of a line extending through the northern boundaries of Georgia, Alabama and Mississippi, and not in the State of Florida or the Georgia counties listed in paragraph (a)(2) of this section, the adjustment shall be the adjustment applicable at Mobile, York, Tuscaloosa, Florence, Huntsville, Gadsden, Opelika or Dothan, Alabama, whichever city is nearest;

(6) For a plant located outside the marketing area in the State of Florida, the adjustment shall be plus 55 cents.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1093.44(a)(12) an amount equal to:

(i) The pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1093.9(c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants.

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1093.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1093.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price of pricing constituent that is required.

Uniform Price

§ 1093.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of such handler's pool plants and of each handler described in § 1093.9(b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1093.9(c) that were classified in each class pursuant to §§ 1093.43(a) and 1093.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1093.44(a)(14) and the corrresponding step of § 1093.44(b) by the respective class prices, as adjusterd by the butterfat differential specified in § 1093.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1093.44(a)(9) and the corresponding step of § 1093.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7)(i) through (iv) and the corresponding step of § 1093.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7)(v) and (vi) and the corresponding step of § 1093.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(11) and the corresponding step of § 1093.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1093.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1093.60 for all handlers who filed the reports prescribed in § 1093.30 for the month and who made the payments pursuant to § 1093.71 for the preceding month;

(2) Add not less than one-half the unobligated balance in the producer-settlement fund;

(3) Add or subtract an amount equal to the total net value of the location adjustments computed pursuant to § 1093.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1093.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the

uniform price for the months of August through February.

(b) For each month of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

§ 1093.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the applicable uniform price(s) pursuant to § 1093.61 for such month.

Payments for Milk

§ 1093.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1093.71, 1093.76, and 1093.77, and out of which he shall make all payments pursuant to §§ 1093.72 and 1093.77. Payments due any handler shall be offset by any payments due from such handler.

§ 1093.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1093.60.

(2) The sum of:

(i) The value at the uniform price(s), as adjusted pursuant to § 1093.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1093.9(c); and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1093.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1093.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1093.71(a)(2) exceeds the amount computed pursuant to § 1093.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1093.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler before the 25th day of the month at not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher, less proper deductions authorized in writing by the producer. If the producer had discontinued shipping milk to such handler before the 25th day of any month, or if the producer had no established base upon which to receive payments during the base paying months of March through July, the applicable rate for making payments to such producer pursuant to this paragraph in either case shall be the Class III price for the preceding month; and

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1093.74 and 1093.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1093.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producers; and

(iv) Less proper deductions authorized in writing by such producer.

(b) On or before the day prior to the dates specified in paragraph (a) of this section, each handler shall make

payment to the cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraph (a) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 15th day of such month, such handler may reduce payments pursuant to paragraphs (a) and (b) of this section to producers on a pro rata basis but not by more than the amount of the underpayment. Such payments shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(d) Each handler pursuant to § 1093.9(a) who receives milk from a cooperative association as a handler pursuant to § 1093.9(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the day prior to the last day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher; and

(2) On or before the 14th day of the following month for milk received during the month, not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1093.74 and 1093.75, and less any payments made pursuant to paragraph (c)(1) of this section.

(e) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) For the months of March through July the total pounds of base milk received from the producer;

(4) The minimum rate(s) at which payment to the producer is required pursuant to this order;

(5) The rate(s) used in making the payment if such rate(s) is other than the applicable minimum rate(s);

(6) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to such producer or cooperative association.

§ 1093.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be adjusted according to the location of the plant at which the milk was physically received at the rates set forth in § 1093.52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1093.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1093.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1093.30(b) and § 1093.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and weighted average shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1093.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1093.60 shall be priced at the uniform price (or at the weighted average price if such is

provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1093.60 for such handler shall include, in lieu of the value of other source milk specified in § 1093.60(f) less the value of such other source milk specified in § 1093.71(a)(2)(ii), a value of milk determined pursuant to § 1093.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1093.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1093.30(b) and 1093.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1093.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1093.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1093.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator from a handler pursuant to §§ 1093.71, 1093.76, 1093.77, 1093.78, 1093.85, and 1093,86, shall be increased 1.5 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1093.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in §1093.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1093.9)c);

(c) Other source milk allocated to Class I pursuant to § 1093.44(a)(7) and (11) and the corresponding steps of § 1093.44(b), except such other source milk that is excluded from the computations pursuant to § 1093.60(d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1093.76.(a)(2).

§ 1093.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of such handler's own production) pursuant to § 1093.73, shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom a cooperative association that the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Base-Excess Plan

§ 1093.90 Base milk.

"Base milk" means the producer milk of a producer in each month of March through July that is not is in excess of the producer's base multiplied by the number of days in the month.

§ 1093.91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of March through July in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1093.92 Computation of base for each producer.

(a) Subject to § 1093.93, the base for each producer shall be an amount obtained by dividing the total pounds of producer milk delivered by such producer during the immediately preceding months of September through January by the number of days' production represented by such producer milk or by 120, whichever is more. If a producer operated more than one farm at the same time, a separate computation of base shall be made for each such farm.

(b) Any producer who, during the immediately preceding months of September through January, delivered milk to a nonpool plant that became a pool plant after the beginning of such base-forming period shall be assigned a base calculated as if the plant were a pool plant during such entire base-forming period. A base thus assigned shall not be transferable.

§ 1093.93 Base rules.

(a) Except as provided in § 1093.92(b) and in paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective. A base transfer to be effective on March 1 for the month of March must be received by the market administrator on or before March 15. Such application shall be on a form approved by the market administrator and signed by the baseholder or the legal representative of the baseholder's estate and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or the legal representative of the estate of any deceased baseholder.

(b) A producer who transferred base on or after March 1 may not receive by transfer additional base that would be applicable during March through July of the same year. A producer who received base by transfer on or after March 1 may not transfer a portion of the base to be applicable during March through July of the same year, but may transfer the entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) Two or more producers in a partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

(e) The base assigned a person who was a producer during any of the immediately preceding months of September through January may be increased to such producer's average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (e)(1), (2), (3) of this section occured, providing such producer submitted to the market administrator in writing on or before March 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through January base-forming period the amount of milk produced on such producer's farm was substantially reduced because of conditions beyond the control of such person, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

§ 1093.94 Announcement of established bases.

On or before February 28 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through January and shall notify each producer and the handler receiving milk from such dairy farmer of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

Signed at Washington, D.C., on September 8, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

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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
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DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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DOT/SLSDC			DOT/SLSDC	
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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.
**Note: As of September 14, 1981, documents received from Food Safety and Inspection Service (formerly Food Safety and Quality Service) will no longer be assigned to the Tues./Fri. publication schedule.

REMINDERS

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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