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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.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 348; Lemon Reg. 347, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 28–March 6, 1982, and increases the quantity of lemons that may be shipped during the period February 21–27, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective February 28, 1982, and the amendment is effective for the period February 21–27, 1982.

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. This regulation and amendment are issued under the marketing agreement, 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. The committee met again publicly on February 23, 1982, 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 weeks. 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 and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. 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 times.

PART 910—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 910.648 is added as follows:

§ 910.648 Lemon Regulation 348.

The quantity of lemons grown in California and Arizona which may be handled during the period February 28, 1982, through March 6, 1982, is established at 240,000 cartons.

2. Section 910.647 Lemon Regulation 347 (47 FR 7388) is revised to read as follows:

§ 910.647 Lemon Regulation 347.

The quantity of lemons grown in California and Arizona which may be handled during the period February 21, 1982, through February 27, 1982, is established at 245,000 cartons.

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

Dated: February 25, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-5469 Filed 2-25-82; 12:17 pm]
BILLING CODE 3410-02-M

7 CFR Parts 1097, 1102, and 1108

[Milk Order Nos. 97, 102 and 108; Docket Nos. AO-219—A36, AO-237-A30 and AO-243-A34]

Milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changing certain provisions of the Memphis, Fort Smith and Central Arkansas orders is based on industry proposals that were considered at a public hearing held April 15–17, 1980. For all three orders, the amendments provide for a charge on overdue accounts, increase the partial payment rate for producer milk during August–February by one dollar per hundredweight, and establish the maximum charges for order administration and marketing services at six and seven cents per hundredweight, respectively. For the Memphis and Central Arkansas orders, the amendments change the method of payment by plant operators for bulk milk purchased from a cooperative's pool plant. For the Fort Smith and Central Arkansas orders, the amendments require that handlers who are more than three days late in the payment of an order obligation shall channel their payments to producers through the market administrator for three months. Also, for the Central Arkansas order, the amendments revise the supply plant pooling qualifications, the diversion limits on producer milk, and the price adjustments applicable at certain plant locations. The changes are necessary to reflect current marketing conditions and to assure orderly marketing conditions in the respective areas.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist,

Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing—issued March 26, 1980; published March 31, 1980 (45 FR 20888). Supplemental notice of hearing—issued April 7, 1980; published April 10, 1980 (45 FR 24492). Partial decision—issued July 14, 1980; published July 18, 1980 (45 FR 48159). Final order—issued July 28, 1980; published July 31, 1980 (45 FR 50704). Recommended decision—issued September 22, 1981; published September 29, 1981 (46 FR 47588). Final decision—issued January 26, 1982; published January 29, 1982 (47 FR 4277).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) 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 said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) 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, six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in §§ 1097.85, 1102.85, and 1108.85.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of the order amending the Central Arkansas order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the maketing area; and

(4) The issuance of the order amending the Memphis, Tennessee and Fort Smith, Arkansas orders is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby further amended, as follows:

PART 1097—MILK IN MEMPHIS, TENNESSEE, MARKETING AREA

1. In § 1097.32, a new paragraph (d) is added to read as follows:

§ 1097.32 Other reports.

* * * * *

(d) On or before the second day prior to the reporting dates specified in § 1097.31, each cooperative association that operates a fluid milk plant from which bulk fluid milk products were transferred to fluid milk plants of other handlers within the time periods described in § 1097.31 shall report to each such fluid milk plant operator and to the market administrator the name and location of the transferor plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

2. In § 1097.62, paragraph (b) is revised to read as follows:

§ 1097.62 Announcement of uniform prices for each handler and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the applicable uniform prices for each handler pursuant to § 1097.61 for such month.

3. Section 1097.71 is revised to read as follows:

§ 1097.71 Payments to market administrator.

(a) Subject to paragraphs (d) and (e) of this section, each handler shall pay to the market administrator on or before the 2nd day prior to the last day of each month an amount determined by multiplying the handler's receipts during the first 15 days of such month of producer milk (excluding the milk of any producer who had discontinued shipping milk to such handler before the 25th of the month and, in the case of a handler described in § 1097.9(c), producer milk delivered to fluid milk plant) and milk from a handler described in § 1097.9(c) by the applicable partial payment rate less proper deductions authorized in writing by producers from whom the handler received milk, provided that the amount deducted for each producer does not exceed the value of the milk received from the producers during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(b) Subject to paragraphs (d) and (e) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of each month an amount equal to such handler's value of milk for such month determined

pursuant to § 1097.60(a), as adjusted by the butterfat differential specified in § 1097.74 and pursuant to § 1097.60 (b), (c) and (d), less:

(1) Payments made by the handler pursuant to paragraph (a) of this section for such month: and

(2) Proper deductions that were authorized in writing by producers from whom the handler received milk, provided that the amount deducted for each producer does not exceed the value of the milk received during the final payment period and provided that the handler has paid such deductions to assignees by the date payment is otherwise due the producer;

(c) Each handler who received bulk fluid milk and bulk fluid cream products from a fluid milk plant operated by a cooperative association shall pay the following amounts for such products to the market administrator, who in turn shall transmit such money to the cooperative association.

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate. If the handler so elects, such prices may be adjusted by the butterfat differential specified in § 1097.74 for the preceding month.

(2) On or before the 14th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1097.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1097.74, plus the applicable administrative assessment, less any payments made by the handler pursuant to paragraph (c)(1) of this section. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant plus the applicable administrative assessment rate.

(d) The following conditions shall apply with respect to the payments prescribed in paragraph (a), (b) and (c) of this section:

(1) Payment to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or anyday that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(e) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1097.73(c).

4. A new § 1097.72 is added to read as follows:

§ 1097.72 Rate of partial payments.

Partial payment rates shall be computed as follows:

(a) During the months of March through July, the previous month's Class III price.

(b) For the months of August through February, the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant.

5. Section 1097.73 is revised to read as follows:

§ 1097.73 Payments to producers and to cooperative associations.

(a) Subject to paragraphs (c) through (e) of this section, the market administrator shall pay each producer on or before the last day of each month for milk which was received during the first 15 days of each month; provided, payment pursuant to § 1097.71 (a) has been received by the market administrator. Such payment shall be uniform to all suppliers of each plant at a rate per hundredweight equal to that received by the market administrator less the deductions authorized by each producer pursuant to § 1097.71 (a).

(b) Subject to paragraphs (c) through (e) of this section, the market administrator shall pay each producer on or before the 16th day after the end of each month for milk for which payment pursuant to § 1097.71 (b) has been received by the market administrator. Such payment shall be at the uniform price(s) computed pursuant to § 1097.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1097.74 and 1097.75;

(2) Less the payment described in paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1097.86;

(4) Less the authorized deductions specified in § 1097.71 (a) and (b) (2); and

(5) Any adjustments for errors in calculating payments to an individual producer for past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) The following conditions shall apply with respect to the payments prescribed in paragraph (a) through (c) of this section:

(1) If the date by which such payments are to be made falls on a Saturday, or Sunday or on any day that is a national holiday, such payments need not be made until the next day on which the market administrator's office is open for public business; and

(2) If the application of § 1097.71 (c) (2) or paragraph (e) (1) of this section results in a delay in the partial or final payments by handlers to the market administrator, the corresponding partial or final payments prescribed in paragraphs (a) through (c) of this section may be delayed by the same number of days.

(e) If the market administrator does not receive the full payment required of a handler pursuant to § 1097.71 he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payment pursuant to this section following the date on which the remaining payment is received from such handler.

6. A new § 1097.78 is added to read as follows:

§ 1097.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1097.71, 1097.73, 1097.77, and 1097.85 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that 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.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

7. Section 1097.85 is revised to read as follows:

§ 1097.85 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 six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of milk at fluid milk plants from producers (including receipts from a handler described in § 1097.9(c) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1097.44(a)(7) and (11) and the corresponding steps of § 1097.44(b);

(c) Receipts of milk by a handler described in § 1079.9(c) in excess of that specified in paragraph (a) of this section; and

(d) Receipts of milk by a handler described in § 1097.9(b).

PART 1102—MILK IN FORT SMITH, ARKANSAS MARKETING AREA

1. Section 1102.31 is revised to read as follows:

§ 1102.31 Payroll reports.

On or before the 20th day after the end of each month, each handler who pays producers pursuant to § 1102.73 shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(a) His name and address and the pounds of milk received;

(b) The prices per hundredweight, the gross amounts due, the amount and nature of any deductions, and the net amounts paid; and

(c) The dates such payments were made.

2. Section 1102.32 is revised to read as follows:

§ 1102.32 Other reports.

(a) On or before the 20th day of each month, each handler described in § 1102.9(a) who is required pursuant to § 1102.73(a) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received who has not discontinued shipping milk to the handler;

(2) The total pounds of producer milk received from such producer;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk; and

(4) In lieu of reporting in accordance with paragraphs (a) (1), (2) and (3) of this section, a handler may, if he so chooses, report the sum of the pounds of milk received from individual producers whose milk is marketed by a cooperative association that is authorized to receive payment for such milk. The handler shall also report the sum of the authorized deductions of such producer.

(b) On or before the 7th day after the end of each month, each handler described in § 1102.9 (a) and (b) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the pounds of base milk; and

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions as authorized in writing by the producer, to be made from the final payment for such milk.

(c) In addition to the reports required pursuant to paragraphs (a) and (b) of this section and §§ 1102.30 and 1102.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

3. In § 1102.62, paragraph (b) is revised to read as follows:

§ 1102.62 Announcement of uniform price for each handler and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the applicable uniform prices for each handler pursuant to § 1102.61 for such month.

4. A new § 1102.72 is added to read as follows:

§ 1102.72 Rate of partial payments.

Partial payment rates shall be computed as follows:

(a) During the months of March through July, the previous month's Class III price.

(b) For the months of August through February, the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant.

5. Section 1102.73 is revised to read as follows:

§ 1102.73 Payments to producers and to cooperative associations.

(a) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1102 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to paragraphs (b) and (c) or paragraph (d) of this section. Payment shall be made to the market administrator on or before the day prior to the dates specified in paragraphs (b) and (c) or paragraph (d) of this section and such payments shall continue until the handler has met all payment obligations for 3 consecutive months. Payment to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator. If the date by which payments must be made to the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(b) Except as provided in paragraph (a) and (d) of this section, each handler shall pay on or before the last day of each month for milk received from producers during the first 15 days of the month to each producer who did not discontinue shipping milk to such handler before the 25th of the month, an amount equal to not less than the partial payment rate pursuant to § 1102.72 multiplied by the hundredweight of milk received from such producer, less proper deductions authorized in writing by the producer. Such deductions shall not exceed the value of the milk received during the partial payment period and the handlers must have paid such deductions to assignees by the date payment is otherwise due the producer.

(c) Except as provided in paragraph (a) and (d) of this section, each handler shall make payment on or before the 15th day after the end of the month to each producer for all milk received from such producer during the preceding month at the uniform price(s) computed

pursuant to § 1102.61 for the month subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1102.74 and 1102.75;

(2) Less the payment described in paragraph (b) of this section;

(3) Less deductions for marketing services pursuant to § 1102.86;

(4) Less proper deductions authorized in writing by such producer provided that the deductions for the month do not exceed the value of the milk received during the month and the handler has paid such deductions to assignees by the date payment is otherwise due the producer;

(d) In lieu of payments to producers pursuant to paragraphs (b) and (c) of this section, each handler, on or before the 2nd day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (b) and (c) of this section.

(e) If the market administrator does not receive the full payment required of a handler pursuant to paragraph (a) of this section, he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

6. A new § 1102.78 is added to read as follows:

§ 1102.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1102.73, 1102.77, 1102.85 or 1102.86 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that 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.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

7. Section 1102.85 is revised to read as follows:

§ 1102.85 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 six cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production); and

(b) Other source milk allocated to Class I pursuant to 1102.44(a) (7) and (11), and the corresponding steps of § 1102.44(b).

8. Section 1102.86 is revised to read as follows:

§ 1102.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers, pursuant to § 1102.73, shall deduct seven cents per hundredweight or such amount not exceeding seven cents per hundredweight as may be prescribed by the Secretary. Each handler making such deductions, shall pay the deductions to the market administrator on or before the 15th day after the end of the month. Such moneys shall be used by the market administrator to sample, test and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association, as determined by the Secretary, is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, 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 milk for which such deduction was computed for each producer.

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

1. A new § 1108.3 is added to read as follows:

§ 1108.3 Route disposition.

"Route Disposition" means any delivery of a fluid milk product classified as Class I milk to a wholesale or retail outlet (including any delivery through a vendor or a plant store) except a delivery to another pool plant.

2. Section 1108.5 is revised to read as follows:

§ 1108.5 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month there is route disposition in the marketing area.

3. Section 1108.6 is revised to read as follows:

§ 1108.6 Supply plant.

"Supply plant" means a plant which is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are shipped during the month to a pool plant.

4. Section 1108.7 is revised to read as follows:

§ 1108.7 Pool plant.

Except as provided in paragraph (c) of this section "pool plant" means:

(a) A distributing plant from which during the month packaged fluid milk products, except filled milk, disposed of as route disposition are equal to not less than 50 percent of its receipts of fluid milk products from producers (including producer milk diverted from the plant), handlers described in § 1108.9(c), and other pool plants and from which not less than 10 percent of such receipts is disposed of in the marketing area in the form of packaged fluid milk products, except filled milk, as route disposition.

(b) A supply plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers (including producer milk diverted from such plant but excluding milk received as diverted milk) and handlers described in § 1108.9(c) is shipped to and received at distributing plants qualified pursuant to paragraph (a) of this section, subject to the following conditions:

(1) A supply plant which is a pool plant under this paragraph for each of the months during the period September through January shall upon written

application to the market administrator, on or before the end of such period, be designated as a pool plant for the following months of February through August;

(2) The shipping percentage specified in this paragraph may be increased or decreased temporarily by 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. For any of the months of February through August, a minimum shipping percentage of up to 10 percent may be established by the Director for all pool supply plants that are qualified as a pool plant pursuant to paragraph (b)(1) of this section. Before making such a finding(s) the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping requirements pursuant to this subparagraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1108.30;

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) 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, unless one of the following conditions applies:

(i) If the plant is located within the marketing area and was a pool plant under this order during the immediately preceding month (except that prior pool plant qualification need not be met during the first month that the amended order is effective), it shall continue to be subject to all of the provisions of this part until the third consecutive month in which 50 percent or more of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) If the plant is located outside the marketing area and was a pool plant under this order in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (b) of this section which has automatic pooling status under another federal order.

§ 1108.7a [Removed]

5. Section 1108.7a is removed.

§ 1108.9 [Amended]

6. In § 1108.9(a) change the word "approved" to the words "distributing or supply" and in § 1108.9(b) change the reference from § 1108.12 to § 1108.13.

7. Section 1108.12 is revised to read as follows:

§ 1108.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1108.9(c); or

(3) Diverted from a pool plant in accordance with § 1108.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from another order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1108.44(a)(8)(iii) and the corresponding step of § 1108.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to another order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

8. Section 1108.13 is revised to read as follows:

§ 1108.13 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 § 1108.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1108.9(c), is the handler for such milk; and

(d) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1108.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless during the month at least one day's production of such dairy farmer is physically received as producer milk at a pool plant;

(2) The total quantity of milk so diverted by a cooperative association shall not exceed, during any month of September through January, one-half of the quantity, and during all other months, the quantity, of producer milk that the cooperative association causes to be delivered to pool plants and that is physically received thereat;

(3) 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 (d)(2) of this section. The total quantity of milk so diverted shall not exceed, during any month of September through January, one-half of the quantity, and during all other months, the quantity, of producer milk physically received at such pool plant that is eligible to be diverted by the plant operator;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d) (2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers' deliveries that are not to be producer milk, otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which milk should not be producer milk;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk; and

(6) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

9. Section 1108.31 is revised to read as follows:

§ 1108.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler who pays producers pursuant to § 1108.73 shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address and the pounds of milk received;

(2) The prices per hundredweight, the gross amounts due, the amount and nature of any deductions, and the net amounts paid; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of each month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1108.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(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.

10. Section 1108.32 is revised to read as follows:

§ 1108.32 Other reports.

(a) On or before the 20th day of each month, each handler described in § 1108.9(a) who is required pursuant to § 1108.71(c) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received who has not discontinued shipping milk to the handler;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1108.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) Each handler, except a producer-handler and a handler making payments pursuant to § 1108.76(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the seventh day of each month for each producer for the preceding month:

(i) His name and address or other appropriate identification;

(ii) The total pounds of milk and butterfat received from such producer, including, for the months of March through July the pounds of base milk;

(iii) The location at which such milk was received;

(iv) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(v) The total pounds of skim milk and butterfat received from a handler described in § 1108.9(c); and

(vi) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(2) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) On or before the day prior to diverting producer milk pursuant to § 1108.12 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(c) On or before the second day prior to the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator and to the market administrator the name and location of the transferor plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a), (b), and (c) of this section and §§ 1108.30 and 1108.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

11. Section 1108.52 is revised to read as follows:

§ 1108.52 Plant location adjustments for handlers.

(a) For milk received from producers or a handler described in § 1108.9(c) at a plant located more than 60 miles by the shortest hard surfaced highway distance as determined by the market administrator from the nearer of the county courthouse in Forrest City, Arkansas, or the State Capital in Little Rock, Arkansas, and which is classified as Class I without movement in bulk form to another pool plant at which a higher Class I price applies, the price specified in § 1108.50(a) shall be adjusted by amount stated in paragraphs (a)(1) through (3) of this section for the location of such plant;

(1) Except as provided in paragraph (a) (2) and (3) of this section, the adjustment shall be minus 1.5 cents for each 10 miles or fraction thereof between such plant and such nearer basing point;

(2) For a plant located within the Arkansas counties of Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittendon, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Pope, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff and Yell or in the States of Oklahoma and Tennessee, no location adjustment shall apply; and

(3) For a plant located in that portion of the State of Arkansas lying to the south of the no location adjustment zone specified in paragraph (a)(2) of this section or located in the States of Louisiana, Mississippi or Texas, the adjustment shall be plus 1.5 cents for each 10 miles or fraction thereof between such plant and such nearer basing point.

(b) For fluid milk products transferred in bulk from a pool plant to another pool 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 § 1108.44 (a)(12) an amount equal to the pounds of skim milk in receipts of milk at the transferee plant

from producers and handlers described in § 1108.9(c), and 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 bulk 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 § 1108.42(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 paragraphs (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

12. In § 1108.60, a new paragraph (g) is added to read as follows:

§ 1108.60 Handler's value of milk for computing uniform price.

* * * * *

(g) Subtract for a handler described in § 1108.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a pool plant during the month.

13. In § 1108.61, paragraph (a)(2) is revised to read as follows:

§ 1108.61 Computation of uniform prices (including weighted average price and base and excess prices).

(a) * * *

(2) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1108.75.

* * * * *

14 Sections 1108.71, 1108.72 and 1108.73 are revised to read as follows:

§ 1108.71 Payments to the producer-settlement fund.

(a) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of the month 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 § 1108.60:

(2) The sum of:

(i) The value at the uniform prices, as adjusted pursuant to § 1108.75, of such handler's receipts of producer milk; 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 was computed pursuant to § 1108.60(f).

(b) Subject to paragraph (d) of this section, each person who operated an order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator on or before the 25th day after the end of each month 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 order 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.

(c) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1108 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to § 1108.73. Payment shall be made to the market administrator on or before the day prior to the dates specified in § 1108.73 and such payments shall continue until the handler has met all payment obligations for 3 consecutive months.

(d) The following conditions shall apply with respect to payments prescribed in paragaphs (a), (b) and (c) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator.

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(3) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1108.73 (b) and (d).

§ 1108.72 Payments from the producer-settlement fund.

(a) On or before the 15th day after the end of each month the market administrator shall pay to each handler except one making payment pursuant to § 1108.71 (c) the amount, if any, by which the amount computed pursuant to § 1108.71 (a) (2) exceeds the amount computed pursuant to § 1108.71 (a) (1).

(b) If the market administrator received payment from a handler(s) pursuant to § 1108.71 (c), he shall distribute such amount plus any amount due such handler(s) pursuant to paragraph (a) of this section to producers and to cooperative associations in the same manner as provided in § 1108.73. In the event the handler fails to transmit the total amount due, the market administrator shall reduce uniformly the payments due

to producers of such handler and complete such payments when the remaining amount is received.

(c) If at any time the balance in the producer-settlement fund is insufficient to make all payments pursuant to paragraph (a) of this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1108.73 Payments to producers and to cooperative associations.

(a) Except as provided in § 1108.71(c) and paragraphs (b), (d) and (f) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1)(i) On or before the last day of each month of March through July to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer, provided that the deductions do not exceed the value of the milk received during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(ii) On or before the last day of each month of August through February to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer from whom the handler received milk, except that the amount deducted shall not exceed the value of the milk received during the partial payment period and provided that the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(2) On or before the 17th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat differential and location adjustments to producers 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 § 1108.86;

(iii) Plus or minus adjustments for errors made in previous payment made to such producer; and

(iv) Less proper deductions authorized in writing by such producer, provided that the deductions do not exceed the value of the milk received during the final payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer: *Provided,* That if by such date such handler has not received full payment from the market administrator pursuant to § 1108.72(a) for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers 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.

(b) Except as provided in paragraph (f) of this section, in the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler other than one specified in § 1108.71(c) shall on or before the 2nd day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section.

(c) Each handler making payment pursuant to this section shall furnish the person to whom payment is to be made with the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer or from each member of the cooperative association during the first 15 days of such month;

(2) On or before the 7th day of the following month to a cooperative association for its individual members, or on or before the 17th day of the following month to producers:

(i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk;

(ii) For the months of March through July, the pounds of base milk received;

(iii) The amount or rate and nature of deductions made from payments; and

(iv) The amount and nature of payments due pursuant to § 1108.77.

(d) Except as provided in § 1108.71(c) and paragraph (f) of this section, each handler shall make payment to a cooperative association with respect to receipts of milk for which it is the handler described in § 1108.9(c):

(1) On or before the 2nd day prior to the last day of the month, an amount equal to the applicable partial payment rate specified in paragraph (a)(1) of this section times the volume received during the first 15 days of the delivery period; and

(2) On or before the 15th day after the end of each month, an amount equal to not less than the value of such milk at applicable class price(s) adjusted by the butterfat differential pursuant to § 1108.74 less payment made pursuant to paragraph (d)(1) of this section.

(e) Subject to § 1108.71(c), each handler who received bulk fluid milk and bulk fluid cream products from a pool plant operated by a cooperative association shall pay the following amounts for such products to the cooperative association:

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate specified in paragraph (a) (1) of this section. If the handler so elects, such prices may be adjusted by the butterfat differential specified in § 1108.74 for the preceding month.

(2) On or before the 15th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1108.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1108.74, less any payments made by the handler pursuant to paragraph (e)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant plus the applicable administrative assessment rate.

(f) If the application of § 1108.71(d)(2) results in a delay in the payment by the market administrator to handlers, the payments prescribed in paragraphs (a), (b) and (d) of this section may be delayed by the same number of days.

(g) If the market administrator does not receive the full payment required of a handler pursuant to § 1108.71(c), he shall reduce uniformity per hundredweight the payments due producers and cooperative associations for their milk received by such handler

by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

15. Section § 1108.75 is revised to read as follows:

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1108.73, the uniform price and uniform price for base milk computed pursuant to § 1108.61 for the month shall be adjusted by the amounts set forth in § 1108.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1108.71, the weighted average price shall be adjusted by the amount set forth in § 1108.52 that is 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.

16. A new § 1108.78 is added to read as follows:

§ 1108.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1108.71, 1108.73, 1108.76, 1108.77, 1108.85 or 1108.86 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that 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.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

17. Section 1108.85 is revised to read as follows:

§ 1108.85 Assessment for order administration.

As his pro rata share of the expense of administraton of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 6 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 § 1108.9 (c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1108.9 (c);

(c) Other source milk allocated to Class I pursuant to § 1108.44(a) (7) and (11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60 (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 § 1108.76(a)(2).

18. Section 1108.86 is revised to read as follows:

§ 1108.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of a handler's own farm production) pursuant to § 1108.73 shall deduct seven cents per hundredweight, or such amount not exceeding seven cents per hundredweight as may be prescribed by the Secretary. Each handler making such deductions shall pay the deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the sampling, testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom a cooperative association, as determined by the Secretary, is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, 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 13th 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 milk for which such deduction was computed for each producer.

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

Effective date: April 1, 1982.

Signed at Washington, D.C., on February 23, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-5242 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9072]

Chrysler Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceedings and modifies the Commission's order issued on February 18, 1981, 45 FR 70883. The modification sets a single effective date for implementing both sets of retail installment contract revisions.

DATES: Final order issued Feb. 18, 1981. Modifying order issued Feb. 17, 1982.

FOR FURTHER INFORMATION CONTACT: Randall Brook, Acting Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442–4655.

SUPPLEMENTARY INFORMATION: In the Matter of Chrysler Corporation, Chrysler Credit Corporation, and Aurora Chrysler-Plymouth, Inc., corporations. Codification, under 16 CFR Part 13, appearing at 45 FR 70883 remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Reopening and Modifying Consent Order is as follows:

On February 18, 1981 the Commission issued a Decision and Order against respondents Chrysler Corporation and Chrysler Credit Corporation [1] in connection with the extension and enforcement of motor vehicle retail credit obligations and the disposition of repossessed motor vehicles. There is now before the Commission a request

[1] A separate consent order issued simultaneously as to a corespondent, Aurora Chrysler-Plymouth, Inc., is not involved in the modification request addressed herein.

by Chrysler Credit Corporation (filed December 4, 1981) for reopening and modification of that Order pursuant to § 2.51 of the Commission's rules of practice, 16 CFR 2.51.

The Order (Paragraph VI.C) required Chrysler Credit to cease, by February 18, 1982, all use of retail installment contract forms which erroneously state debtors' liability for a deficiency upon repossession. Another provision required such Chrysler Credit contracts to include recitals of debtors' rights to any repossession surplus. Under paragraph VI.B, contract forms reflecting the latter revision were to be distributed for dealer use within a year after Commission issuance of a final rule or adjudicated order relative to such rights.

Desirous of making the necessary changes at once rather than in successive steps, Chrysler Credit's request asks that April 1, 1982 be fixed as the date for effectuation of both sets of retail installment contract revisions required of it by our February 18, 1981 Order.[2] With respect to deficiency recitals this would involve a delay of approximately six weeks; with respect to the recitals of surplus rights it would advance the required implementation date by an indeterminable number of months.[3]

The Commission is of the opinion that the minor six week delay in implementation as to deficiency recitals is more than offset by the benefits of establishing a date certain for Chrysler Credit's effectuation as to surplus rights. The public interest will be served by modifying the Order as requested.

Therefore, it is ordered That Docket 9072 be, and hereby is, reopened for the limited purpose of effecting the following changes in the Order as to Chrysler Credit Corporation.

It is further ordered That paragraph VI.B be modified to read as follows:

B. Shall distribute on or before April 1, 1982 the revised retail installment contract forms to all Dealers who use Chrysler Credit installment contract forms.

It is further ordered That paragraph VI.C be modified to read as follows:

C. Shall, no later than April 1, 1982, cease and desist the use of any Chrysler Credit retail installment contract form which represents that the debtor may be liable to pay a deficiency where Chrysler Credit knows or should know that it is not entitled under state or federal law to collect a deficiency.

By the Commission.

Issued: February 17, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-5293 Filed 2-25-82; 8:45 am]

BILLING CODE 6750-01-M

[2] Because the timing of the actions specified in Paragraphs VI. A and D depends on Paragraphs VI. B and C, no modification of Paragraphs A and D is necessary to accomplish Chrysler Credit's desired result. Chrysler Credit has abandoned its request for change of Paragraphs VI. A and D.

[3] Our only adjudicated order concerning repossession surpluses is not yet final. *Francis Ford, Inc. v. FTC*, 654 F. 2d 599 (9th Cir. 1980), petition for rehearing pending.

16 CFR Part 13

[Docket C-3083]

D'Arcy-MacManus & Masius, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a St. Louis, Missouri advertiser, among other things, to cease disseminating advertisements for any denture product, toothache drop or gel, which contain representations that contradict or negate the health, safety, or efficacy statements appearing on the product's label. Any claims regarding the duration of use of such products trigger a disclosure of any labeling warning. The order further requires that any representation that Snug Denture Cushions can be worn "for weeks" or any other period of time, must be accompanied by a statement that denture cushions should only be used "temporarily, until a dentist can be seen."

DATE: Complaint and order issued February 12, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PF, Leslie Rossen, Washington, D.C. 20580, (202) 724-1496.

SUPPLEMENTARY INFORMATION: On Monday, December 7, 1981 there was published in the Federal Register, 46 FR 59548, a proposed consent agreement with analysis In the Matter of D'Arcy-MacManus & Masius, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.195 Safety; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures. Subpart—Disseminating Advertisements, etc.: § 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure; § 13.1863 Limitations of product; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Carol M. Thomas,

Secretary.

[FR Doc. 82-5270 Filed 2-25-82; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 35, and 154

[Docket Nos. RM80-42, R-424, R-446; Order No. 144-A]

Order Denying Rehearing, Lifting Stay and Clarifying Order

Issued February 22, 1982.

AGENCY: Federal Energy Regulatory Commission Energy.

ACTION: Final rule; order on rehearing.

SUMMARY: By this order, the Commission lifts the stay imposed July 2, 1981, on its final rules requiring tax normalization and denies rehearing of those rules. The rules issued May 6, 1981 (46 FR 26613, May 14, 1981), require a public utility making a rate filing under the Federal Power Act, or an interstate pipeline making a rate filing under the Natural Gas Act, to use tax normalization for certain timing difference transactions to compute the income tax component of cost of service. The order also removes certain refund liabilities imposed during the pendency of the rulemaking and clarifies particular aspects of the final rules with respect to reductions to rate base and

the recent passage of the Economic Recovery Tax Act of 1981. Finally, the order redesignates the final rules requiring tax normalization, removing them from Part 2 of the Commission's regulations and placing them in Parts 35 and 154 for public utilities and natural gas pipelines respectively.

DATE: This order, the final rules requiring tax normalizations and the removal of related refund liabilities are effective February 22, 1982.

FOR FURTHER INFORMATION CONTACT: John Conway, Deputy Assistant General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Room 8106, Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

In the matter of Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes, Docket No. RM80–42; Accounting for Premium, Discount and Expense of Issue, Gains and Losses on Refunding and Reacquisition of Long-term Debt, and Interperiod Allocation of Income Taxes, Docket No. R–424; Amendments of the Uniform Systems of Accounts for Classes A, B and C Public Utilities and Licensees and Natural Gas Companies: Deferred Income Taxes, Docket No. R–446.

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On May 6, 1981, the Federal Energy Regulatory Commission (Commission)[1] issued a final order amending Part 2 of its regulations to require a public utility making a rate filing under the Federal Power Act or an interstate pipeline making a rate filing under the Natural Gas Act to use tax normalization for miscellaneous timing difference transactions to compute the income tax component of its cost of service.[2] The order requires a rate applicant to use tax normalization for all timing difference transactions except those addressed in prior Commission orders. The order also codifies the existing Commission practice of adjusting rate base for accumulated deferred income taxes. In addition, the order requires a rate applicant to make provision in the income tax component of its cost of service for any excess or deficiency in the deferred tax accounts due to tax rate changes and to timing difference transactions within the scope of the rulemaking that had previously been given flowthrough treatment. Finally, the order eliminates the refund contingencies in all cases subject to the interim order issued June 8, 1979, under Docket Nos. R–424 and R–446 as of the date the final rule becomes effective.

Applications for rehearing were filed by Cities Service Gas Company (Cities Service),[3] Commonwealth Edison Company (Com Ed),[4] Cities,[5] Public Systems,[6] the Public Utilities Commission of the State of California (California) and East Tennessee Group, *et al.* (East Tennessee).[7] On July 2, 1981, the Commission issued an order granting rehearing of the petition for the limited purpose of providing more time for further consideration and stayed the effective date of the order.

For the reasons set forth below, these applications for rehearing are denied. Before addressing these applications, however, the Commission believes it is important to address the effect of related provisions of the Economic Recovery Tax Act of 1981 on the final rule. This Act, which became effective after the final rule was issued in this proceeding, creates additional timing differences that fall within the scope of the rule.

I. Effect of the Economic Recovery Tax Act of 1981

On August 13, 1981, the Economic Recovery Tax Act of 1981 (ERTA) became law.[8] The Act establishes a new depreciation system, called Accelerated Cost Recovery System (ACRS), under the Internal Revenue Code (IRC).[9] Under the Act, except as provided in certain transition provisions, the utility cannot avail itself of the tax benefits under ACRS,[10] unless it normalizes method and life timing difference transactions related to property depreciated under ACRS.

ACRS completely replaces the prior system of depreciation for property placed in service after December 31, 1980. ACRS abandons the concept of useful life in favor of prescribing certain annual depreciation (cost recovery) percentages by asset class. In addition, ACRS prescribes the treatment of asset salvage value. All utilities using ACRS, even those that currently use flow-through, are required under ERTA to normalize timing difference transactions attributable to the use of ACRS for property placed in service after December 31, 1980, in order to receive the tax benefits of ERTA.[11]

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[1] The term "Commission" refers to the Federal Power Commission (FPC) with respect to actions taken prior to October 1, 1977, and to the Federal Energy Regulatory Commission (FERC) with respect to any actions taken on or after that date.

[2] Order No. 144 (issued May 6, 1981), 46 FR 26613 (May 14, 1981).

[3] Cities Service filed in the alternative a Petition For Clarification.

[4] Com Ed also filed an application for clarification.

[5] The Cities application was based on behalf of 25 cities.

[6] The Public Systems application was on behalf of 284 public systems.

[7] This petitioner represents various gas distribution utilities in Tennessee, electric municipal systems in Illinois, Connecticut and Pennsylvania, Memphis Light, Gas and Water Division, Jackson, Tenn-Utilities Division, Arkansas Municipal Power Association and the Papago Tribal Utility Authority.

[8] Pub. L. No. 97–34, 95 Stat. 172 (1981).

[9] ERTA at sections 201–209.

[10] *See* ERTA at section 209(d) for transition rule. In general, this rule requires that a rate order using normalization of ACRS-related timing differences become effective before January 1, 1983, in order for utilities to take advantage of ACRS.

[11] ERTA at section 201. Section 201 contains a new section 168 of the Internal Revenue Code. Section 168(e)(3) provides:

(3) Special Rule For Certain Public Utility Property—

(A) In General.—The term "recovery property" does not include public utility property (within the meaning of section 167(1)(3)(A)) if the taxpayer does not use a normalization method of accounting.

(B) Use of Normalization Method Defined.—For purposes of subparagraph (A), in order to use a normalization method of accounting with respect to any public utility property—

(i) The taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

(ii) If the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to section 167(1)) using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under subparagraph (B)(i), the taxpayer

Continued

If the Commission denied normalization treatment for these timing difference transactions, utilities could not use ACRS and would be required to follow book methods and lives for tax purposes. In that event, there would be no method or life timing differences; depreciation methods and lives would be the same for ratemaking and income tax purposes. With the elimination of method and life timing differences, flow-through of IRC tax benefits to ratepayers would no longer be an option since there would be no tax benefits to flow-through; the utility would lose all tax benefits associated with use of different depreciation methods and lives. For this reason, Commission denial of the use of tax normalization for the timing differences created by the new Act would adversely affect ratepayers and utilities and would frustrate the intent of Congress.

Commission orders issued prior to Order No. 144 which addressed timing difference transactions related to depreciation do not cover the new timing difference transactions created by the ACRS. The normalization requirement of Order No. 144, which encompasses all miscellaneous timing difference transactions not previously covered by Commission orders, therefore covers those timing difference transactions created under the ACRS.

On October 5, 1981, East Tennessee filed a petition to reopen the record of this proceeding in light of the Economic Recovery Tax Act of 1981. Specifically, the petitioner claims that the improved utility cash flow that may result from the provisions of the ERTA makes tax normalization of miscellaneous timing difference transactions not covered by ACRS unnecessary and that the Commission's impact study must be revised in light of ERTA's provisions respecting tax lives of utility property. Finally, East Tennessee requests the Commission to undertake an impact analysis to determine "the extent of the tax benefits actually realized by utilities which would be lost forever to their ratepayers under a normalization rule." (Petition at 6.)

Responses to the petition to reopen were filed by the Edison Electric Institute and by a large group of investor-owned utilities (Utility Group).[12]

On November 30, 1981, the Commission issued a notice requesting comments on the impact of the new tax bill on the final rule. Comments were received from Detroit Edison Company, Arkansas Power & Light Company, Middle South Services, Inc., Public Systems, East Tennessee, Arthur Andersen & Co., New England Electric System, Natural Gas Pipeline Company of America, the American Gas Association, Electric Utilities,[13] El Paso Natural Gas Company, and Utility Group.

In general, with the exception of Public Systems and East Tennessee, these commenters stated that the intent, effect and underlying rationale of Order No. 144 were consistent with the new tax legislation, that the record need not be reopened, and that the rule need not be amended. Detroit Edison Company raised a question about the effect of Order No. 144 on the ability of a utility to utilize the ACRS tax benefits. We shall respond to this question as well as the comments of Public Systems and East Tennessee.

With respect to East Tennessee's argument in its petition that the requirement of tax normalization under the ACRS will improve the cash flow situation of utilities, this fact, if true, would not affect the Commission's determination to adopt tax normalization for all timing difference transactions because cash flow was not the primary basis for our decision.[14] Moreover, several commenters noted that, in any event, the new tax bill may not increase cash flow significantly in the aggregate due to the elimination of the repair allowance provision.[15]

East Tennessee's request that the Commission revise its impact study in light of the new Act is rejected for two reasons. First, with respect to a study of tax benefits that allegedly might be retained by utilities but "lost forever" by ratepayers, the Commission found that tax normalization of timing difference transactions does not result in any permanent benefits to utilities (or their stockholders).[16] This same result obtains with timing difference transactions created under ACRS. While recognition of tax benefits in rates may occur in periods different from their recognition for tax purposes, the benefits are recognized for both in the same amounts over the entire life of the transactions.

Second, to perform a study of the impact on rates of ACRS-related timing difference transactions would be a pointless exercise since these transactions must be normalized by utilities to receive the tax benefits of the ERTA. The staff study's estimates of base difference impacts (primarily AFUDC interest) are not affected by the tax lives of property so that the results would not change if the shorter ACRS tax lives were used.[17] Although the life difference model in the staff study would be affected by the new law, it is accurate for the timing difference transactions associated with pre-1981 property and need not be revised for the effects on post-1980 property because normalization is required.

Additionally, East Tennessee in its petition to reopen the record raises questions concerning the impact on tax normalization of the new liberalized leasing provisions in the new tax bill.[18] The petitioner discusses the new leasing provisions in terms of their beneficial effect on the cash flow of utilities and pipelines. For the reasons discussed above, the Commission is not persuaded that cash flow effects of the new tax bill constitute a basis to reopen the record. However, the Commission is aware that the new tax bill's leasing provisions do raise complicated issues that must be addressed at some point. The Commission has not reached a policy decision on the ratemaking treatment of transactions relating to these provisions. Until that decision is made, the Commission cannot evaluate the impact of any timing difference transactions that may result from different tax and ratemaking treatment of transactions covered by the leasing provisions. The Commission will decide the issues involving leasing provisions under the new tax law on a case-by-case basis or through a rulemaking proceeding in the future.

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must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

(C) Public Utility Property Which Is Not Recovery Property.—In the case of public utility property which, by reason of this paragraph, is not treated as recovery property, the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (B)(i).

Cf. Internal Revenue Code section 167(1)(2)(C). In general, unlike the ACRS, this provision permits flow-through under certain circumstances for pre-1981 property.

[12] Appalachian Power Company, Boston Edison Company, Columbus & Southern Ohio Electric Company, Commonwealth Edison Company, Consolidated Edison Company of New York, Inc., Indiana & Michigan Electric Company, Kentucky Power Company, Kingsport Power Company, Michigan Power Company, New England Electric System, Ohio Power Company, Union Electric Company, and Wheeling Electric Company.

[13] Cleveland Electric Illuminating Company, Central Illinois Light Company, Dayton Power & Light Company, Louisiana Power & Light Company, Montana Power Company.

[14] Order No. 144, at 86, 46 FR at 26629.

[15] Another commenter suggested that, based on Table 11, of Staff's Study, Appendix A to Notice, page 98, any cash flow gain from the new tax bill would nonetheless cover less than one percent of a utility's cash flow needs. *See* comments of El Paso Natural Gas Co., at 5.

[16] Order No. 144, at 45; 46 FR at 26622; *see also,* Section II.B.3, *infra.*

[17] *See* Appendix A of Notice, at 91, 45 FR at 22092.

[18] *See* Economic Recovery Tax Act of 1981 at section 201(f)(8).

Both East Tennessee and Public Systems have raised arguments concerning the new tax bill's leasing provisions in their comments on the effect of the new tax bill on the final rule. Each contends that the Commission should require utilities that transfer tax benefits under ERTA leasing provisions to reflect those benefits in their cost of service. As previously stated, the Commission will not address the question of the appropriate ratemaking treatment for leasing transactions in this proceeding.

The contention of East Tennessee and Public Systems, in any event, does not relate to whether flow-through or normalization of timing difference transactions is the appropriate principle to employ regarding these tax benefits, but rather to whether the Commission should recognize these transferred benefits in the utility's rates at all. In other words, their argument does not concern itself with timing difference transactions. Consequently, the argument is not appropriately raised in this proceeding.

Detroit Edison raises a concern that public utilities may lose ACRS benefits if the Commission requires tax normalization of certain timing difference transactions that the ACRS does not require to be normalized. Specifically, this commenter posits that a Commission requirement of tax normalization of the timing difference transactions related to nuclear decommissioning and plant removal costs (or negative salvage costs) may cause public utilities to lose ACRS tax benefits because the deferred tax account is actually reduced when these costs are recognized. The Commission does not share Detroit Edison's concern. There is nothing in the Act that connects the granting of ACRS tax benefits to Commission action on timing difference transactions unrelated to ACRS timing difference transactions. As long as the Commission grants to utilities the right to use tax normalization associated with the method and life timing differences created by ACRS, the Commission believes that the utilities will be eligible to receive the ACRS tax benefits. The Act leaves undisturbed the ability of the Commission to require normalization of other timing difference transactions, whether or not they increase or decrease the balance in the deferred tax accounts.

II. Response to Petitions

A. Policy Considerations

1. *Matching and Equity Principles*—Cities argue on rehearing that the matching principle espoused in Order No. 144, which provides for matching of tax benefits with the associated costs creating those benefits, should not be followed because tax costs are different from all other costs due to the requirements of the Internal Revenue Code. In this context, Cities point out that several tax laws require the Commission to act in a manner inconsistent with equitable regulatory principles in order to permit utilities to avail themselves of tax benefits. According to Cities, these IRS requirements constitute an inequitable windfall to utilities and Order No. 144 simply exacerbates this inequity by requiring tax normalization event though the Commission has the choice to adopt flow-through which would still permit the utilities to obtain the tax benefits.

The Commission cannot agree with Cities' argument. The tax laws to which Cities refer represent Congressional policy to encourage utility investment. If the Commission were to treat certain tax benefits in a manner inconsistent with the tax laws, the utilities would lose the tax benefits and the utilities' customers would be no better off.[19] In those areas in which the Commission has discretion to choose among competing ratemaking methods without adversely affecting the utility's tax liability, the Commission has chosen to adopt a policy which treats tax costs in a manner that is consistent with other costs in a utility's cost of service. The Commission believes that the matching principle which provides for cost recognition and related tax benefit recognition during the same period should be followed wherever possible.

East Tennessee objects to the adoption of the matching principle as the basis for tax normalization because the Commission has not used this principle in the past when this issue has been evaluated. There are two responses to this argument. First, it is not correct to state that the Commission has never before required such consistency between the treatment of costs and the tax allowance in the cost of service. The Commission, in *Columbia Gulf Transmission Company*, Docket Nos. RP75–105, *et al.*, Opinion No. 47 (issued July 2, 1979), held in part that, with respect to the consolidated tax savings issue, the losses (costs) attributable to an unregulated affiliate of a regulated pipeline, which were used to reduce the overall tax liability of the consolidated entity (for tax purposes), should not be reflected in the regulated pipeline's cost of service to reduce its tax allowance because the pipeline's customers did not pay for the losses (costs).[20] The rationale underlying Order No. 144 is consistent with this holding.[21]

Second, to adopt East Tennessee's argument would be to deny the Commission's ability to institute a policy change. The Commission is not bound to follow the reasoning of prior Commissions which may or may not have embraced the matching principle. *Greater Boston Television Corp.* v. *FCC*, 444 F. 2d 841, *cert. denied*, 403 U.S. 923 (1971). The Commission has articulated the rationale for the rule contained in Order No. 144 by fully explaining its reliance on the matching principle.

Public Systems argue that tax normalization does not promote interperiod equity even on a "single plant" basis. They contend that tax normalization intensifies the existing inequities because, under general ratemaking principles, a higher proportion of return-on-investment dollars is collected from ratepayers during the early years of a plant's operating life than during the later years. While they note that, under general ratemaking principles, flow-through will not accomplish full levelization of rates over a plant's life, they claim that flow-through tends more in the direction of levelizing rates than tax normalization. Public Systems contend that the Commission's analysis of this issue in Order No. 144 is deficient.

In Order No. 144, the Commission responded to this argument in two ways. First, the Commission stated that a rulemaking on tax normalization is not the proper forum for dealing with the interperiod allocation of rate base and return. In essence, Public Systems are seeking a major revamping of the way in which rates are set.

Second, the Commission noted that, with respect to a major type of timing difference covered by this rule—depreciation base differences—flow-through will not achieve the result that Public Systems allege. For these timing differences, flow-through lowers rates below tax normalization rates during the plant's construction period and raises

[19] In fact, customers would be worse off because, in the absence of timing differences, deferred taxes would not exist as a reduction to rate base. *See also*, discussion of ACRS in the new tax bill at Section I, *supra*.

[20] Remanded *sub nom.*, *City of Charlottesville* v. *FERC*, No. 80–1175 (D.C. Cir. August 7, 1981). The court held that the FERC had the statutory authority to adopt the holding in *Columbia Gulf*. The case was remanded for failure on the part of the Commission to provide substantial evidence for an additional argument, an incentive for exploration and development, as a primary rationale for the Commission's decision.

[21] *See also* Opinion No. 821, *Southern California Edison Company*, Docket No. E–8176 (issued September 22, 1977).

them *in equal annual amounts* over the plant's operating life.

While it is true that flow-through applied to depreciation method differences (*i.e.*, accelerated depreciation) would have the effect Public Systems seek, these timing differences are excluded from the scope of the instant rule to the extent that pre-1981 property is involved. For property placed in service after December 31, 1980, the ACRS provision of the new tax bill eliminates flow-through as an option.[22]

2. *Tax Savings versus Tax Deferral*—Public Systems and East Tennessee argue, as they did in their initial comments, that tax normalization will result in continual tax deferrals (or, as East Tennessee labels it, "permanent tax savings"). Public Systems assert that, because continual tax deferrals will exist for the foreseeable future, the adoption of tax normalization violates the "actual taxes paid" principle.

Public Systems' basic dispute concerns the Commission's focus on the tax effects of individual timing difference transactions, the so-called "single plant" analysis. They argue that if, instead, the cumulative effects of timing difference transactions are considered over time, the tax allowance will more than cover the tax costs of a utility.

The Commission agrees that continual tax deferrals [23] may exist in the foreseeable future. But, for the reasons discussed in the Notice and in Order No. 144, this possibility is not dispositive of the Commission's authority to approve a tax normalization policy. Moreover, as the staff study demonstrates, even if continual tax deferrals occur, rates established under a tax normalization policy may fall below those established under a flow-through policy. In fact, in staff's analyses of the rate impacts of the rule, continual tax deferrals were projected to occur over the forecast period in all cases for both natural gas pipelines and electric utilities. Rates under a tax normalization policy, however, were projected by staff to fall below those established under a flow-through policy in both the low- and high-growth gas pipeline industry cases and, assuming a modest reduction in the cost of capital to utilities using tax normalization, in both the low- and high-growth electric utility industry cases.[24] Thus, the staff study showed that there is no direct relationship between continual tax deferrals and higher rates due to tax normalization. In addition, even with continual tax deferrals, tax normalization does not result in increased profits to the pipeline or utility.[25]

For these reasons and the other reasons set forth in Order No. 144 which would support the adoption of tax normalization, the Commission believes that tax normalization is the preferable method of allocating tax costs for ratemaking, regardless of the existence of continual deferrals.

3. *Customer-Contributed Capital*—East Tennessee and Public Systems argue that the Commission erred in Order No. 144 by departing from its Notice and prior Commission and court precedents in finding that deferred taxes were not customer-contributed capital. These petitioners state that the Commission provided no justification for this departure from precedent and the Notice.

The primary reason that deferred taxes should not be considered a loan from customers was explained in Order No. 144:

> Tax normalization does not impose any burden upon ratepayers to pay in excess of the costs associated with the services they receive. Under tax normalization, ratepayers are charged the same rates as they would have been charged had there been no timing differences. . . .[26]

For example, under tax normalization, current utility rates are generally unaffected by any construction activity in which the utility is engaged.[27] Since tax normalization results in a tax allowance in rates equal to those that would exist in the absence of timing differences associated with these construction expenses, one cannot reasonably argue that customers are being forced to contribute capital to the utility's financing of its construction.[28]

The essential difference between the tax normalization and flow-through policies is one of the interperiod allocation of a cost—taxes—in setting rates. While it is true that, with respect to certain types of timing difference transactions, customers pay rates that recover a deferred tax cost, this fact does not convey an ownership or creditor's right for those costs.

The tax benefits, implied by these deferred taxes, arise from utility costs that current customers are not being charged. The tax benefits arise solely from the utility's ability to deduct a cost on its tax return prior to the recognition and recovery of that cost in rates. Tax normalization results in customers being charged the same rates as would occur absent the timing difference transaction.

In addition, the rate treatment implied by the inclusion of a deferred tax component in rates to reflect the collection in rates currently for taxes to be paid some time in the future (or, at the least, recognized as a factor in reducing the tax allowance in future rates) is not, in essence, different from the rate treatment of other costs. Taxes are not the only cost component in rates in which customers are required to pay for the cost prior to a utility's actual expenditure of funds. Plant removal cost is an expense that is recognized in rates prior to the utility's actual expenditure of funds.[29] When this expense is apportioned over the life of the plant (through the depreciation allowance), it reflects the consideration that customers who obtain the services from that plant should be responsible for the cost of dismantling it. Just as the prepayment of plant removal costs over a plant's operating life (rather than during the period of dismantlement when the costs are incurred) does not constitute a loan from customers to the utility, so, too, the prepayment of taxes (through deferred taxes) does not constitute a loan from customers to the utility.

Moreover, inclusion of deferred taxes as an increase in the tax component of rates only occurs for certain types of timing difference transactions. In some cases, however, applying tax normalization to expenses recognized for ratemaking purposes *prior* to their recognition for tax purposes generates a negative deferred tax cost which tends

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[22] *See* Section I, *supra*.

[23] "Continual tax deferrals" refers to the continual existence of a tax allowance equal to or in excess of taxes payable or, equivalently, to constant positive or growing deferred taxes.

[24] The explanation of this phenomenon was contained in the Notice proposing tax normalization. Notice, at 41, 45 FR at 22061: The reason for this occurrence is found in the Commission's policy of deducting accumulated deferred taxes from rate base. Over time, as the tax allowance exceeds taxes payable because of deferred taxes, accumulated deferred taxes continue to grow. This, in turn, increases the rate base deduction and lowers the return and tax allowances in the utility's cost of service.

[25] *See* Order No. 144, at 86–89, 46 FR at 26629–30; *see also* Section II.A.5. *infra*.

[26] Order No. 144, at 60, 46 FR at 26624.

[27] There are limited exceptions to this due to the Commission's current policies on AFUDC rates and the deduction of construction-related deferred taxes from rate base. The Commission, however, has expressed an interest in reviewing these policies. *See* Order No. 144, at 115, 116, 46 FR at 26634–35.

[28] It should be noted here that when construction work in progress is permitted to be placed in rate base, the tax effects of the construction-related interest expenses are also reflected in rates. The interperiod allocation of these expenses for ratemaking purposes is conformed to their interperiod allocation for tax (IRS) purposes and the timing difference is eliminated.

[29] The discussion here is with respect to the actual plant removal costs and not the tax effects of those costs that constitute timing differences which are normalized pursuant to Order No. 144.

to reduce the tax allowance in rates below a utility's current tax liability.

Petitioners' arguments on the customer loan issue point out that, assuming there is a loan, customers do not receive an adequate rate of return on their loan under the Commission's policy of deducting accumulated deferred taxes from rate base. They suggest that customers should be given some higher rate of return on "their loan" on the order of the equity rate of return allowed the utility or pipeline or the interest rate customers pay on their credit cards. Even if the Commission were to accept the customer loan theory, the petitioners have not explained how rates could reflect this higher return to customers. The Commission sees no possible vehicle for doing this short of penalizing a utility's stockholders.[30] This further illustrates the inappropriateness of the customer loan theory.

The deduction of accumulated deferred taxes from rate base is not intended to provide customers a return on a "loan." Rather, it is intended to reflect the lower cost of service that a utility achieves by its use of the cash flow from deferred taxes in place of debt and equity capital.

The Commission sees no value in reviewing further those arguments against tax normalization that had as their underlying basis the assumption that deferred taxes constituted a loan or capital contribution from customers. As the preceding discussion and the discussion of the question in Order No. 144 point out, the customer loan theory is unpersuasive.[31]

4. *Just and Reasonable Rate Standard*—Cities claim that, contrary to the dictates of the *Public Systems* Court, the Commission did not focus upon consumer protection in developing a tax normalization policy in Order No. 144.[32] In this context, Cities argue on rehearing that the Commission neglected the statement from the *Public Systems* decision that "the focus of regulation remains control of the economic power of utilities that enjoy monopoly status." [33]

In Order No. 144 the Commission balanced the interests of both the regulated entities and the consumers. With respect to the consumers, the Commission stated throughout Order No. 144 that the goal is to protect consumers over time by allocating costs and associated benefits to the same time periods. The issue involved in this rulemaking is not whether rates will be higher under flow-through or tax normalization in the next rate proceeding of a utility or pipeline but, rather, whether flow-through or tax normalization better comports with the public interest in protecting current and future ratepayers. "Consumer protection" or the "control of the economic power of utilities" does not mandate a rejection of a cost allocation method that the Commission believes is superior simply because that method may result in rates that are higher than some other method over the short term. Withholding recognition of tax benefits related to expenses that also are not recognized in a utility's cost of service is an approach which is equitable to current and to future consumers, and this "protects" them.

5. *Rate, Cash Flow, Rate of Return, Cost of Capital and Rate Stability Impacts*—East Tennessee criticizes the staff study's rate impact analyses in two areas. First, East Tennessee disputes the validity of the study because the data base consists of industry-wide average figures. The petitioner asserts that "the Commission must make individual computations for each individual pipeline and each individual electric utility projecting for a full life cycle all relevant future conditions."

In effect, East Tennessee suggests that the Commission undertake a case-by-case evaluation of the issue of tax normalization. While the Commission had the option of taking that sort of approach, the Commission chose instead a generic informal rulemaking procedure as the means for establishing a ratemaking policy of industry-wide application. The Commission is satisfied that the use of data on an industry-wide basis is appropriate to assess the impact of the rule on the utility industry and its customers, even though we acknowledge that data relating to individual utilities and their customers may vary from the average.[34]

Second, East Tennessee claims that staff's method for separating the rate impact estimates of base and life differences was inaccurate and misleading. East Tennessee appears to have misunderstood the staff study. The study used separate models which were derived and used to estimate the base and life difference impacts. These models are listed separately in Table 9 of the staff study. Only in the summary tables and charts of the impact results (Tables 12 and 13 and charts 1 and 2) are the impacts of these two timing differences added. As the staff study noted:

> The base and life timing differences are evaluated separately to keep the analyses as simple as possible. These separate results, however, can be summed to obtain the combined impact of these two sources of timing differences.[35]

East Tennessee apparently misread that portion of the staff study where staff proved the latter point, *i.e.*, that the separate impacts were additive.[36]

East Tennessee also disputes the Commission's conclusions as to the beneficial cash flow impact of a normalization policy, claiming that the total cash flow generated over the life of a plant is greater with flow-through than with tax normalization. East Tennessee fails to comprehend the fact that flow-through results in a greater cash flow *need*. While the reasons for this greater cash flow need should be clear from the analysis contained in the staff study,[37] the point is sufficiently important to be worth clarification.

In a single project analysis, the total internal cash flow generated through rates over a plant's life (including the construction period) will equal the total amount needed to pay all the depreciation, return and taxes associated with the project. The internal cash flow generation is higher under a flow-through policy than under a tax normalization policy. This higher internal cash flow generation simply reflects the higher cash flow need created by a flow-through policy. This need is due to the fact that, as the

[30] Any reduction in rates intended to give customers a higher return on "their loan" will necessarily result in setting for the stockholders a return below that determined reasonable and allowed in the cost of service.

[31] *See* Order No. 144, at 59–62, 46 FR at 26624.

[32] In its petition, Cities concede that consumer protection includes maintaining the financial integrity of a regulated entity, and do not contend that the Commission failed to consider the financial integrity of that entity.

[33] 606 F. 2d at 979, n. 27.

[34] *See also* Order No. 144, at 15 78, 46 FR 26627–28.

[35] Appendix A of Notice, at 80, 45 FR at 22090.

[36] East Tennessee, additionally, found difficulty in reconciling the numbers in the tables on pages 80 and 81 of the staff study (45 FR at 22090) with the formulas given in the footnote on page 81. It should be noted that these formulas are not the basis for the derivation of the models presented in Table 9 of the staff study. The formulas were presented solely as an alternative way of showing the additive property of the depreciation timing differences. To assist interested parties in reconciling the numbers in the tables with the formulas, the following parameter values may be useful:

	d_b	d_l	B_b	B_l
For years 1–4	.20	.25	110	100
For year 5	.20	0	110	100

One can see the life difference as a difference in book and tax depreciation *rates* (reflecting the difference in life over which the asset is depreciated) and the base difference as a difference in book and tax depreciation *bases* (reflecting the difference in the amount to be depreciated over the plant's book or tax life).

[37] *See* Appendix A of Notice, at pp 31–45, 45 FR at 22074–77.

construction period tax benefits are flowed through to customers, the utility must obtain additional financing to pay for its construction costs, thus entailing higher return and tax costs. Under normalization, however, the utility obtains cash flow through the deferred tax allowance to pay for construction costs and thus reduces its need to acquire financing from the capital markets.

Cities were the only petitioners to substantively attack the Commission's finding that the use of tax normalization may tend to lower a utility's cost of capital vis-a-vis the use of flow-through. Cities criticize the Commission's cost of capital findings on three substantive bases. [38]

First, Cities argue that, contrary to the Commission's critique, the statistical trend analyses of market-to-book ratios and dividend yields offered by them in their initial comments is accurate. These analyses purported to show that, for years prior to 1979, a utility's cost of capital would be lower under tax normalization than under flow-through, and for 1979 and thereafter the utility's cost of capital would be higher under tax normalization than under flow-through. In arguing that the Commission's critique was incorrect, in so far as that critique went to the failure of Cities to justify the nonlinear equation used in their trend analyses, Cities recast its trend analyses in linear form in their rehearing application. Cities also state that the rationale for the trend is that tax deferrals were increasing rapidly with time.

The basic problem with Cities' trend analyses is the underlying hypothesis that the cost of capital impact varies over time, rather than whether the relationship is linear or nonlinear. To say that the trend results from taxes increasing rapidly with time is not responsive.The Commission stated in Order No. 144 that "[I]f tax normalization lowers *or raises* the cost of equity capital relative to the use of flow-through, that result should be independent of time." [39] Cities have not rebutted this statement.

The second point raised by Cities concerns their hypothesis that deferred taxes are a senior liability that increases a utility's leverage and thus the risk to common equity investors. The Commission has already explained in some detail the reasons for rejecting this hypothesis in Order No. 144. [40]

The third point raised by Cities to criticize the Commission's cost of capital findings supporting tax normalization is its argument that flow through leads to greater income stability. To support that argument, Cities has submitted a revised exhibit—pertaining to income stability under the alternative policies—in response to one of the criticisms made by the Commission to its argument. Cities claim that the revised exhibit supports the same conclusion reached initially by Cities. The Commission has evaluated Cities' revised exhibit and still finds it deficient. As Order No. 144 stated, the exhibit presents only a one period analysis for a Type I timing difference. [41] If Cities had evaluated the effect of a sales reduction during the period when the timing difference transaction reverses, they would have found that it leads to greater income instability under flow-through.

As a final point on cost of capital, upon review of Order No. 144, the Commission notes an inconsistency in its statements of findings on the cost of capital impacts of the proposed policy. In Section II.I.4 the Commission stated conclusively that "(t)he final rule is found to have beneficial effects on the cost of capital to utilities." However, in section I.B.3, the Commission stated that "[t]ax normalization may have a favorable impact on the cost of capital to utilities vis-a-vis flow-through." The latter statement is the correct one. The Commission finds it unnecessary to go beyond the finding that, if the choice of tax normalization or flow-through has any impact on the cost of capital, then there may be a favorable impact under tax normalization. The record contains evidence supporting this view and no persuasive arguments or empirical data have been presented supporting the contrary.

Cities challenge the view advanced in Order No. 144 that adoption of a tax normalization policy will not result in windfall profits to the shareholders of a utility. In particular, Cities dispute the Commission's agreement with a statement by one commenter that, since utility stocks are currently selling below book value, stockholders are not receiving or anticipating a windfall. The Commission agrees with Cities that the evidence of a market-to-book ratio below 1.0 for utilities that normalize does not, by itself, demonstrate the absence of windfall profits. However, Cities have not attempted to explain the basis for their belief that windfall profits will occur under tax normalization. As we explained in Order No. 144, [42] deferred taxes cannot be paid out as dividends or placed in retained earnings under the Commission's accounting rules. They can serve as a replacement for investment funds that a utility must otherwise acquire from lenders and equity investors, but the utility is deprived of a return on those funds through the Commission's policy of reducing rate base by those amounts. Thus, there is no direct monetary benefit to shareholders in the form of profits.

East Tennessee claims that the Commission is wrong when it states that tax normalization is likely to produce more stable rates than flow-through. It points to exhibits in its initial comments which purportedly show that flow-through and tax normalization rates result in almost identical variations over the period 1979 to 2014 for the case of El Paso Natural Gas Company's San Juan Infill Program.

The Commission agrees that the cited exhibits show little difference in the rate stability under tax normalization and flow-through for the projected conditions of the San Juan Infill Program. However, as stated in Order No. 144, there are many factors to be considered for such a comparison. [43] Whether the results for the San Juan Infill Program apply generally is, at best, uncertain. At most, the exhibits indicate that rate stability will be unaffected by the choice of tax normalization or flow-through.

6. *Other Policy Considerations*—Public Systems allege that there is no justification for the Commission's failure to require normalization of the tax-on-tax effects associated with the collection of deferred taxes from ratepayers. They claim that the Commission's refusal to require normalization of these tax-on-tax effects is based upon a misunderstanding or mischaracterization of the comments of Public Systems and is patently

[38] They also allege that the Commission misled commenters by appearing to base its findings on staff's empirical analyses rather than the "studies cited" in a footnote. There is no basis for this claim. The studies were referenced twice in the cost of capital section of staff's report. The empirical data presented by staff was introduced by the phrase "in addition" and it is clear from the context of staff's remarks that the data were intended to corroborate the referenced studies with more current data than those used in the studies. Moveover, Cities make no attempt to show error in the main portion of the study's cost of capital discussion—staff's list of four arguments that have been used to support the theory of a lower cost of capital under tax normalization. In addition, Cities criticize the style of citation for these studies as not being in "any legally acceptable form". The staff study is not a legal brief and the form used is consistent with that found in a number of economic journals. Full citations to the studies are given in the bibliography of the staff study.

[39] Order No. 144, at 95, 46 FR at 26631 (emphasis in original).

[40] *Id.* at 89–91, 46 FR at 26630.

[41] *Id.* at 92–93, 46 FR at 26630.

[42] *Id.* at 87, 46 FR at 26629.

[43] *Id.* at 101–102, 46 FR at 26632.

inconsistent with the rationale which the Commission claims supports tax normalization in general. In this context, Public Systems argue that the use of tax normalization in ratemaking results in the collection of revenue which is taxed as current income, but which is not recognized as income for ratemaking purposes. As a result, current ratepayers are required not only to pay deferred taxes, but also to pay the income taxes on the revenues collected for deferred taxes. Public Systems believe that consistent application of tax normalization principles requires that the tax effects resulting from the recognition of income associated with the collection of deferred taxes be postponed, and that the income taxes on these deferred tax revenues be collected from the future ratepayers who will be benefiting from a reduced cost of service due to reversal of the timing differences.

In support of their argument, Public Systems claim that deferred taxes are properly treated for accounting purposes in the same way as deferred investment tax credits and that the Accounting Principles Board Opinion No. 2 states that it is appropriate to treat investment tax credits as deferred income. Public Systems contend that if deferred income taxes are recognized properly as deferred income, the taxes on such deferred income also must be normalized to be consistent with the general principle of tax normalization espoused in Order No. 144.

The Commission believes that Public Systems have mischaracterized the nature of deferred income taxes. The Accounting Principles Board, in its Opinion No. 2, concluded that the investment tax credit was a reduction in a cost otherwise chargeable in a greater amount to future accounting periods. For those companies electing to use deferral accounting, this conclusion leads to a spreading of the investment tax credits over future periods. Therefore, the deferred investment tax credits may be properly characterized as deferred income.

However, deferred taxes are different from deferred investment tax credits. Deferred tax accounting is a process of allocating the tax effects of transactions in each period for ratemaking (and accounting) purposes consistent with the manner that the transactions themselves are recognized for such purposes. In other words, the nature of deferred tax accounting is one of allocating tax cost between periods and not one of recognizing a reduction in cost as is the nature of accounting for the investment tax credit.

In summary, since tax normalization is a process of allocating costs and does not create deferred income, the arguments of Public Systems that normalization of the tax effects associated with the collection of the deferred taxes is required will not stand. The effect of Public Systems' suggested treatment, if adopted, would be to erroneously treat as an interperiod timing difference an item that is not an expense deduction for income tax purposes, that is, the deferred tax expense itself. The Commission in its Order No. 144 noted that, if this erroneous approach were carried to its logical conclusion, the amount of normalized revenues would asymptotically approach zero. Under Public Systems' approach, the deferred income tax expense would be reduced by a credit amount of approximately one-half of the expense; this would, in turn, leave a net deferred tax amount in the cost of service which would affect taxable income and also require a further reduction. This process could continue until the resulting rates are the same as under flow-through. For this reason, the Commission does not adopt Public Systems' suggestion.

Public Systems and East Tennessee allege that the Commission erred in rejecting their recommendation that contributions in aid of construction be required instead of comprehensive tax allocation for capitalized expenses associated with the construction of new plant. They believe that requiring contributions in aid of construction as an alternative to tax normalization will result in lower rates for consumers, will provide utilities with the same benefits as would normalization, and will result in adverse consequences only to the Internal Revenue Service.

The gist of their argument is that certain construction-related expenditures such as short-term interest costs are deductible by a utility on its tax return when the expenditures are incurred; therefore, the net cost to the utility is the gross cost reduced by the tax savings realized. If a utility is then reimbursed for its net cost by a customer's contribution, the reimbursement will not be taxable income to the utility; the utility will have recovered its cost, and the customer will have paid lower rates than it would have under tax normalization. Under this scheme, the only "loser" is the taxing authority since the contribution would be excluded from taxable income of the utility.

The primary objection to this scheme is that it assumes a tax result which, in fact, may be unobtainable under current tax laws. The Commission is not aware of any IRS ruling on the taxability of contributions in the form suggested by East Tennessee,[44] but it seems highly unlikely that the IRS would permit a utility to deduct on its tax return a portion of its construction cost and at the same time permit the exclusion from taxable income of a partial reimbursement of the amounts deducted.[45]

The form of contribution in aid of construction suggested by East Tennessee is considerably different from the more common form of non-taxable contribution received by a utility for reimbursement of specific facility cost and where the constructed facilities have zero tax basis to the utility, that is, where the associated cost is not also allowed as a tax deduction for the utility. Under the more common form of contributions, ratepayers would pay essentially the same amount over the life of the plant as under tax normalization or flow-through, although the timing would be different.

Using East Tennessee's Table No. 1 [46] in conjunction with Table No. 3 of the staff study,[47] a simple illustrative comparison of the various policies can be made. The illustration focuses on AFUDC interest expenses. The primary assumptions are that (1) a utility incurs $10 million in AFUDC interest costs during construction year 0, (2) the service life of the plant is two years, and (3) the tax rate is 40 percent. The following table presents the effect of this cost on the utility's revenue requirements under the different policies:

TABLE 1

[In millions of dollars]

Case	Year		
	0	1	2
I. Base: No AFUDC interest	0	0	0
II. Tax Normalization	0	5.96	5.48

[44] Public Systems appear to have a different belief about the effect of contributions in aid of construction on rates. Statements made by them indicate that the contributions scheme would set rates during the construction period midway between flow-through and tax normalization rates. For example, they state on page 62 of their comments that "(t)he cash flow *to utilities* would be the same as under normalization, but the cash flow *from ratepayers* would be only half as great." (Emphasis in original). If this is their view, they are in error. *See* the following discussion in text.

[45] *Compare* treatment of contributions in aid of construction under IRS. Rev. Rul. 75–557 and 76–61.

[46] Comments of East Tennessee Group, *et al.* at 14–15. East Tennessee's table contains an error in the calculation of the utility's tax liability in year 1 for the contributions scheme (their Case III). The tax liability in that year should be $4 million, corresponding to the tax liability in their Case II (Revenue Requirements without AFUDC Interest). The equity return upon which the tax is based is the same in both of these cases.

[47] Notice, at Appendix A, at 35, 45 FR at 22075.

TABLE 1—Continued

[In millions of dollars]

Case	Year		
	0	1	2
III. Flow-Through	(6.67)	9.93	9.13
IV. Contributions in Aid of Construction (AFUDC interest deductible-East Tennessee option)	6.00	0	0
V. Contributions in Aid of Construction (AFUDC interest nondeductible)	10.00	0	0

As can be seen, tax normalization (Case II) leaves the revenue requirements during year 0 (the construction period) unchanged and recovers the $10 million interest costs in installments of $5 plus financing and related tax costs during years 1 and 2 (the operating life). Flow-through (Case III), by allocating the tax benefits (arising from the deduction of the AFUDC interest from taxable income) to the construction year 0, reduces rates below what they would be absent a construction program (Case I) and so must raise rates during the operating life to recover from consumers both the interest expense, the tax benefits previously flowed through and the associated financing costs. The contributions scheme (Case IV), where the AFUDC interest is also allowed to be deducted as an expense on the utility's tax return, would raise rates during the construction period above the "No AFUDC Base Case I" and leave rates unchanged during the operating life. Ratepayers are thus required to pay the interest costs during the construction period while future customers during the service life of the facilities would get the benefit of reduced rates.

But notice that, rather than paying the full $10 million in AFUDC interest, ratepayers under the contributions scheme envisioned by East Tennessee would pay only $6 million. This is the after-tax cost of the AFUDC interest. The federal government is assumed to pay the other $4 million by permitting the utility to continue to deduct the $10 million of its tax return while ignoring the revenues being collected to pay for the AFUDC interest cost. As noted above, such a policy seems highly unlikely.

Case V, on the other hand, shows a more probable contribution scheme where the related cost is not also permitted as a tax deduction. In this case, the effect is simply to have ratepayers pay the full cost as it is incurred by the utility during the construction period. Since ratepayers pay essentially the same amount under Case V as under Cases II and III—except, of course, for the effects of financing costs—there is no real benefit to the ratepayer in adopting the contributions policy.

Another reason justifying the Commission's rejection of the contribution in aid of construction scheme advanced by petitioners as a substitute for the tax normalization policy of Order No. 144 is that many of the timing difference transactions covered by that policy are not related to construction costs (*e.g.*, regulatory commission expenses, plant removal costs, and ACRS-related depreciation expenses). Because they are not construction-related, these transactions would not qualify under any contributions in aid of construction policy. As a result, this approach would only be a partial substitute for tax normalization.

B. Other Issues Raised on Rehearing

1. *Price Squeeze*—Public Systems argue on rehearing that adoption of tax normalization will have anticompetitive consequences in states which do not authorize a utility's collection of deferred taxes from retail customers under rates set by those state authorities. They contend that the Commission's policy of having a case-by-case determination of the anticompetitive (price squeeze) effect of tax normalization is an insufficient response to this problem. Assuming that a price squeeze exists, Public Systems claim that the general ratemaking scheme of the Federal Power Act, which permits a rate to go into effect subject to refund, combined with the Commission's current policy of phasing the price squeeze issue, can cause a price squeeze related to tax normalization to "continue unchecked for a matter of years." To remedy this possible situation, Public Systems suggest that tax normalization be permitted subject to refund if the utility's retail regulatory authority permits tax normalization, but that tax normalization only be permitted prospectively after a determination by the Commission that there is no anticompetitive effect for utilities whose retail regulatory authorities do not permit tax normalization.

This proposal on tax costs would have some merit if both the federal and state regulatory authorities employed identical ratemaking methodologies on all other costs in determining rates and if retail and wholesale rate increases become effective for precisely the same time periods. However, as explained in the Notice and in Order No. 144, federal and state regulation of electric rates generally lead to disparate treatment of many cost of service elements, including allocation, rate base valuation (including construction work in progress), rate of return, and test year selection and adjustments to that selection.[48] "It is quite conceivable that such divergent policies would have off-setting rate effects that would minimize or eliminate any rate disparity otherwise created by conflicting state-federal normalization practices."[49]

At the outset of a rate proceeding, the Commission cannot know whether a particular wholesale rate will create a price squeeze. Absent such knowledge, it would be unfair to deny the utility the use of tax normalization at the time that its rate increase would otherwise go into effect. Because the principle of tax normalization is sound, an untested allegation of the anticompetitive effect of tax normalization should not act to deny part or all of a utility's rate increase at the initial stage of a rate increase proceeding.[50] If, at the end of the rate setting proceeding, the Commission determines that a remediable price squeeze exists, it has the authority to order refunds of those amounts found to have contributed to the price squeeze, including those amounts attributable to tax normalization.

2. *Mandatory Requirement to Normalize*—Both East Tennessee and Pubic Systems objected to that part of the rule requiring rate applicants to use tax normalization in all future rate proceedings. These petitioners preferred the position taken by the Commission in Order No. 530-B and in the proposed rule that the utility have the option of using tax normalization.

East Tennessee claims that the rule will "work a hardship upon both the regulated utility and its customers" if both groups prefer to use flow-through rather than tax normalization. Order No. 144 provides a ready response to this argument: "The rule, of course, leaves undisturbed the ability of the parties to reach a settlement on any of the issues covered by the rule."[51]

Public Systems offer reasons why a utility might prefer not to utilize comprehensive tax normalization and contend that the Commission has given no justification for mandating tax normalization. Although Public Systems attempt to provide objections from the utilities' perspective, in fact no utilities have objected to this requirement. Thus,

[48] Notice, at 47, 45 FR at 22062; Order No. 144, at 67, 46 FR at 26626.

[49] Notice, at 47, 45 FR at 22062 (footnote omitted).

[50] If the Commission were to adopt the policy of permitting such a denial, the utility could not recover its appropriate rate if the Commission were to find later that the allegation was untrue.

[51] Order No. 144 at 4, 46 FR at 26614.

whatever their preferences may be, utilities are prepared to comply with the rule without complaint.[52] In addition, the rationale behind the mandatory requirement is fully set forth in Order No. 144.[53]

Public Systems also argue that a utility should not be permitted to normalize only those items that would increase current rates. The Commission agrees. By making tax normalization mandatory, the Commission will prevent utilities from using tax normalization only in those situations in which tax normalization would increase rates.

3. *Denial of Hearing on Tax Normalization in Future Cases*—East Tennessee states that the Commission exceeded its statutory power in making the final rule applicable to all future proceedings. Error is alleged on two grounds. First, it is alleged that the Commission failed to provide in the final rule an opportunity ("safety valve") for a showing, in a particular case, that tax normalization will result in a tax savings rather than a tax deferral. Second, it is alleged that the Commission erred by promulgating the rule without using the formal rulemaking procedures required by the Administrative Procedure Act, the Natural Gas Act, and the Federal Power Act.

As explained in Order No. 144 and discussed elsewhere in this rehearing order, the Commission's decision to adopt tax normalization is not based on the finding that a temporary tax deferral will occur in the foreseeable future. Thus, even if litigants in rate cases were permitted to demonstrate the existence of a continual tax deferral [54] rather than a temporary tax deferral, the Commission would not be persuaded to adopt a flow-through method for computing the tax allowance. In this context, however, it is important to note that, because the final rule adopts tax normalization for timing differences and not permanent differences, litigation is permitted on the question of whether there are timing differences as opposed to permanent differences.

With respect to petitioner's second claim that an agency must comply with the formal rulemaking procedures of the Administrative Procedures Act (APA) [55] "where another statute requires a rule to be made on the record after opportunity for agency hearing," neither the Natural Gas Act nor the Federal Power Act requires a proceeding relating to rates to be made "on the record." Therefore, the Commission is authorized to establish ratemaking procedures through informal rulemaking.[56] Moreover, section 403(c) of the Department of Energy Organization Act, which permits ratemaking by rulemaking under the Natural Gas Act and Federal Power Act, does not require that rulemakings undertaken by the Commission involve formal procedures.

4. *Makeup Provision and Tax Rate Changes*—East Tennessee argues that the Notice gave no indication that the Commission would require utilities and pipelines to make provision for any excess or deficiency in deferred taxes due to the use of flow-through in prior years.[57] The petitioner notes that Section 4(b) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)) requires that the notice include "either the terms or substance of the proposed rule or a discussion of the subjects and issues involved," and apparently contends that the rule "substantially exceeds the proposal in severity."[58]

The Commission believes that the Notice adequately apprised interested persons of the issues involved.[59] Section 2.202(c)(2) of the proposed rule contained in the Notice concerned the treatment of timing differences occurring prior to the use of tax normalization. Like the final rule (§ 2.202(c)), the proposed rule would have required the rate applicant to follow a Commission-approved ratemaking method of providing for deferred taxes related to prior timing differences. Unlike the final rule, however, which requires some provision for eliminating the excess or deficiency in deferred taxes due to the use of flow-through for prior timing differences where no Commission approved ratemaking method was established, the proposed rule would have maintained a flow-through approach for those items. The fact that the Commission's ultimate resolution of one component of the question is different from its proposal cannot hide the fact that the question itself was clearly raised in the Notice, and all commenters had the opportunity to discuss the merits of the proposal.[60] Nothing contained in the applications for rehearing causes the Commission to reconsider its position on the question of notice.

Public Systems and East Tennessee criticize the Commission for not having evaluated the impacts of the § 2.202(c) provision dealing with the makeup for prior flow-through and the effects of tax rate changes. It appears to be the implicit belief of these petitioners that this provision will necessarily lead to higher rates. Logic suggests that a likely result in many circumstances will be, at least initially, to lower rates. Tax rates have fallen over the period that companies have been allowed to use tax normalization. To the extent that companies have been accruing deferred taxes at a higher than current tax rate, their accumulated deferred tax accounts are in excess of the amounts necessary for future tax liabilities. This excess may be substantial for some electric utilities given their large construction programs during this period. Thus, the immediate impact of the provision regarding tax rate changes is necessarily to lower rates. Even assuming that the effect of the provision requiring a method for adjusting for prior flow-through is to increase rates, the rate effect of the tax rate change provision may often exceed the prior flow-through effect.

The principal reason why the Commission has chosen not to attempt to quantify the rate impacts of 2.202(c) is that that section is to be implemented on a case-by-case basis. The Commission may determine in any case that the impact on consumers or utilities is

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[52] With the exception of Cities Service, no utility or pipeline requested rehearing of the rule itself.

[53] Order No. 144, at 110–112, 46 FR at 26633–34.

[54] *See* note 23, *supra* for discussion of the terms "tax savings" "continual tax deferrals" and permanent difference; *see also* Order No. 144, at 44–58, 46 FR at 26621–26624.

[55] 5 U.S.C. 556 and 557.

[56] The courts have consistently upheld the authority of the Commission to set rates by informal rulemaking. *See Phillips Petroleum* v. *FPC*, 475 F.2d 842 (10th Cir. 1973); *American Public Gas Association* v. *FPC*, 567 F.2d 1016 (D.C. Cir. 1977); *American Public Gas Association* v. *FPC*, 498 F.2d 718, 722 (D.C. Cir. 1974) (The court noted that the relevant sections of the Natural Gas Act contained no "on the record" provision for rulemaking and held that those sections "on their face do not require the Commission to follow the formal procedures of sections 556 and 557 of the APA."); *see also United States* v. *Florida East Coast Railway*, 410 U.S. 742 (1972) (The Court held that the Interstate Commerce Commission may use informal rulemaking in satisfying the requirement to hold a hearing in a rate case under the Interstate Commerce Act, an Act upon which the Federal Power Act and Natural Gas Act rate sections were modeled.)

[57] The petitioner did not object, however, to the requirement of a provision to take account of tax rate changes in determining the appropriate amounts of deferred taxes.

[58] East Tennessee petition at 31.

[59] *See California Citizen Bands Ass'n.* v. *United States*, 375 F. 2d 43, 48 (9th Cir.), *cert. denied*, 389 U.S. 844 (1967); *Mt. Mansfield Television, Inc.* v. *FCC* 442 F. 2d 470, 488–89 (2d Cir. 1971).

[60] The same commenter argues that the mandatory requirement to normalize (in § 2.202(b)) suffers from the same defect as the provision in § 2.202(c) because the notice provided for a utility or pipeline to elect to normalize. Like the situation relating to rate treatment of prior timing differences, we believe the Notice raised the issue of the elective or mandatory use of tax normalization in the proposal in a manner sufficiently broad to apprise commenters of the nature of the issues involved. The applications for rehearing have not provided arguments which cause us to revise the final rule on the ground of inadequate notice.

significantly adverse and choose not to require a particular method to account for the effects of prior timing differences and tax rate changes. Alternatively, the Commission may find, through experience, that the impacts are not substantial and adopt one or more methods to be applied uniformly.

East Tennessee argues that, because of the uncertainty of a payback of deferred taxes due to changes in Federal income tax laws, the Commission erred in failing to reject tax normalization. This argument was previously addressed and rejected in Order No. 144; however, further exposition may be helpful.

Timing differences are differences between the recognition of transactions for tax purposes and for ratemaking purposes which arise in one time period and reverse in one or more other periods so that over the life of the entire transaction the total amount recognized for tax purposes and for rate purposes is equal. This statement is valid whether tax rates change over time or not. However, the impact of tax rate changes on cost of service may be different due to shifting recognition of the tax effects of the transactions between periods in which the tax rates are different. This phenomenon occurs because the tax allowances granted in rates, in turn, increase the taxable income on which the tax allowance is based—the so-called tax-on-tax effect—which must also be compensated for in rates. If tax normalization, as compared to flow-through, shifts the recognition of transactions for ratemaking purposes to periods when the tax rate is lower, the effect is to increase the amount of taxes the ratepayer will pay in rates and the amount of taxes the utility will pay into the Treasury. Conversely, if normalization shifts the ratemaking recognition of expense transactions to periods where the tax rates are higher, the ratepayer would pay lower rates, as compared to flow-through, and the Treasury would collect less in taxes. In either of these instances, however, the utility does not profit or suffer a loss since it is compensated for its tax costs and no more. The Commission, contrary to the views of the petitioner, believes that it should determine a policy of proper allocation of costs between periods without speculating as to whether Congress will raise or lower corporate income tax rates in the future.

5. *Timing Differences Covered by the Rule*—East Tennessee and Cities raised arguments concerning the application of tax normalization to particular depreciation-related timing difference transactions.

East Tennessee argues that there is a significant difference between liberalized depreciation-related and other depreciation-related timing difference transactions. It states that, over the life of a single plant, use of accelerated depreciation methods changes the available amount of tax depreciation deductions and, therefore, rapid depreciation in the earlier years is simply a borrowing of part of the straight-line depreciation deductions which would otherwise be taken in later years. East Tennessee argues, however, that base differences are items which are capitalized for rate purposes and taken as an expense in a single year for tax purposes and, therefore, there is no reversal of the timing difference; only a pure tax savings is involved. It then concludes that tax normalization of base differences imposes "phantom" taxes upon ratepayers.

The Commission does not agree with East Tennessee. The fact that an item is capitalized for rate purposes does not mean that the capitalized item is not taken as a tax deduction for rate purposes. To the contrary, the items of cost which constitute base differences (*e.g.*, interest during construction, pension cost capitalized, ad valorem taxes) are includable in the determination of taxable income for rate purposes when the cost of the assets in which these items are a component is depreciated. The deduction from taxable income for rate purposes is taken in the form of book depreciation over the service life of the related assets as opposed to being treated as an expense in a single year for IRS tax return purposes; but the total available deduction over time for book and tax purposes is the same. There is only a difference in the label of the deduction (depreciation or expense) and the period that it is utilized (service life of related asset for ratemaking purposes or time of incurrence for IRS tax purposes). East Tennessee is therefore wrong in its characterization of tax normalization of base differences as imposing "phantom" taxes upon ratepayers.

A somewhat similar argument was raised by Cities Service. Cities Service believes that it was not the intention of the Commission in Order No. 144 to require tax normalization for the difference between aggregate straight-line tax depreciation and the total depreciation allowance for ratemaking purposes. Cities Service believes that if such were the intention of the Commission, then this requirement is technically invalid because, according to Cities Service, it treats as an interperiod timing difference an item that is not an expense deduction for income tax purposes. The basis for its belief apparently is that the depreciation allowance for ratemaking purposes is not found as an expense deduction for income tax purposes.

Cities Service is in error. It was the intention in Order No. 144 to require the normalization of the difference between straight-line depreciation used for rate purposes (as adjusted for permanent differences such as equity AFUDC) and aggregate straight-line tax depreciation. This timing difference is clearly described in Order No. 530 and in the Notice of Proposed Rulemaking, Docket No. RM80-42, as differences between tax and book lives of property and differences that result from recognition of certain items as current expenses for tax purposes and as capitalized and amortized expenses for rate purposes.

A simplified example of the nature of the various forms of timing differences related to depreciation for pre-1981 property [61] may be helpful to explain what is and what is not covered by Order No. 144, as well as to respond to Cities Service's request for clarification. If we assume that a utility constructs an asset which will have a service life of ten years and the cost of the asset is $100 (labor and material of $90 and interest of $10), then the utility will charge to its books and recover from its ratepayers 10% of the asset cost or $10 for each of the ten-years that the asset is used to provide service. Under tax normalization, this same $10 would be used as a deduction to compute the tax component of the cost of service in each year of its ten-year service life. The asset cost is deducted for tax return purposes, however, in an entirely different manner. The interest portion of the asset cost is deductible as an expense when incurred prior to the start of the service life, leaving only $90 available for tax depreciation. The guideline straight-line tax life is then determined (say 5 years—a 20% depreciation rate); then a shorter tax life permitted by the Asset Depreciation Range ADR provisions (4 years—a 25% depreciation rate which is a 20% shorter life than the guideline straight-line life) is selected. After the ADR life is selected, the ADR straight-line rate is then accelerated (for this example the sum-of-the-years digits (SYD) method is used). This enables the utility to depreciate, for tax purposes, 40% of the assets' cost of $90 in the first year, 30% in the second, 20% in the third, and 10% in the fourth, resulting in the following

[61] *See* Section I, *supra*, for a discussion of post-1980 property.

pattern of tax deductions to be taken on the tax return: [62]

TABLE 2

Year	Description	Amount
0	Interest expense	$10.00
1	Tax depreciation at 40 percent	36.00
2	Tax depreciation at 30 percent	27.00
3	Tax depreciation at 20 percent	18.00
4	Tax depreciation at 10 percent	9.00
	Total deductions	100.00

An analysis of the $26 difference between the amount of book depreciation used for rate purposes ($10) and the amount of tax depreciation ($36) used for tax return purposes in the first year of service is as follows:

(A) Difference that results from base differences ($100–$90) × 10%	$(1.00)
(B) Difference that results from different depreciation methods (SYD—ADR straight-line) $90 × (40%–25%)	13.50
(C) Difference that results from ADR life provisions (ADR straight-line—guideline straight-line) $90 × (25%–20%)	4.50
(D) Difference that results from different straight-line book and tax lives (guideline straight-line—book straight-line) $90 × (20%–10%)	9.00
	26.00

Normalization of items *B* and *C* above have been permitted by Commission Orders prior to Order No. 144. Normalization of items *A* and *D* are required by Order No. 144. From this example, it should be clear that the Commission intends that the rule pertain to the differences between aggregate guideline straight-line tax depreciation ($90 × 20% = $18) and the total allowance for book depreciation purposes ($100 × 10% = $10) for the year since this is merely a different expression of the summation of items *A* and *D* above.

6. *Miscellaneous Issues*—California claims that the Commission erred in adopting tax normalization over flow-through, relying exclusively on the comments it filed pursuant to the Notice of Proposed Rulemaking in this proceeding. The Commission has considered and responded to the comments of California in deciding Order No. 144, and a review of those comments does not lead us to a different result on rehearing.

Com Ed seeks clarification of Ordering Paragraph (A) of Order No. 144. Ordering Paragraph (A) removes, as of the effective date of Order No. 144, "the refund contingencies relating to tax normalizaton imposed on all cases subject to" the interim order [63] issued following the *Public Systems* [64] remand decision. Com Ed points out that Opinion No. 63,[65] issued after this interim order, established the refund contingency on the basis of a different Commission order.[66] In order to clarify Order No. 144, Com Ed requests that the Commission declare that "all wholesale electric revenues attributable to tax normalization which continue to be held subject to refund in cases in which the Commission has otherwise finally decided cost of service issues prior to issuance of Order No. 144 shall no longer be subject to refund after the effective date of said Order." This request for clarification is adopted by amending Ordering Paragraph (A) of Order No. 144 and expanded to include applicable wholesale natural gas pipeline revenues as well.

C. Exception to Rule Relating to Reductions or Additions to Rate Base—Section 2.202(b)(2) of Final Rule

After the issuance of Order No. 144, the Commission issued a decision in *Northern States Power Company*, Opinion No. 134, 16 FERC ¶ 61,196 (December 3, 1981). That decision involved, *inter alia*, the appropriate rate base treatment of the amounts in the deferred tax accounts attributable to the cancellation of construction of the Tyrone generating facilities. Consistent with precedent, the Commission permitted amortized recover of the costs of the abandoned project but denied rate base inclusion (that is, a return) on the unamortized costs. The Commission also adopted normalization of the timing difference transactions associated with the abandoned project. However, the Commission did not require the rate applicant to reduce its rate base by the amount of deferred taxes related to the abandoned project.

The Commission notes that this treatment is arguably inconsistent with the literal language of § 2.202(b)(2) contained in Order No. 144 which requires a rate base reduction for all amounts recorded in Accounts 281–283 in the Uniform Systems of Accounts. Nonetheless, we believe that Opinion No. 134 reached the correct result and we expressly adopt the following rationale from that decision:

> Since the Tyrone project was never placed in service and its cost was never included in rate base, Northern States will not earn a return on its Tyrone investment, will not have a correspondent tax obligation, and will neither need nor receive related tax compensation from its ratepayers. To deduct the unamortized deferred tax reserve balances from rate base would create a negative rate base and would therefore lower Northern States' cost-of-service by $15 million over the course of a ten year normalized period. Were we to allow this to occur, we would effectively deprive Northern States from receiving compensation for its entire out-of-pocket investment in Tyrone, contrary to the policy we found to be in the public interest in Opinion No. 49. We have been shown no reason to alter the balance that decision struck and we decline to do so indirectly here through a rate base deduction.
>
> Nor do we see any inequities in allowing Northern States to receive the use of the Account 283 balances.
>
> Since it will lose the time value use of its investment during the amortization period, it follows that it should receive the time value use of the unamortized tax benefits related to that investment during the normalization period. This type of parity of treatment is no different than that employed when we assigned the actual tax benefits to the ratepayers in direct proportion and over the same period of time during which they will incur the actual project costs.[67]

Thus, the Commission is creating an exception to § 2.202(b)(2) for deferred tax amounts attributable to abandoned projects in which the related costs are not included in rate base for ratemaking purposes. Although the final rule shall not be amended to include this exception, the foregoing discussion should indicate that the Commission intends to apply this exception in factually similar cases.

D. Effect of Affirming Order No. 530–B and Extinguishing Refund Liability in Pending Cases

East Tennessee challenges the Commission's June 8, 1979, interim order [68] which followed the Order No. 530–B policy pending the outcome of this rulemaking. This challenge consists of two components. First, East Tennessee argues that the court, in *Public Systems*, reversed the Commission's holding in Order No. 530–B and, thus, the interim order, based on 530–B, was null and void for the interim period. Second, it claims that the interim order exceeded the holding in Order No. 530–B by denying intervenors the right to oppose tax normalization and present evidence. The Commission disagrees with both contentions.

It is true that the court in *Public Systems* found that the Order No. 530

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[62] *See* the attached Appendix for a complete listing of book and tax depreciation amounts over a 10-year period.

[63] *Order Establishing Interim Procedures*, Docket Nos. R–424 and R–446 (issued June 8, 1979).

[64] *Public Systems* v. *FERC*, 606 F. 2d 973 (D.C. Cir. 1979).

[65] Opinion No. 63, *Commonwealth Edison Company*, Docket Nos. E–9002 and ER76–122 (issued September 14, 1979).

[66] Opinion No. 31A, *Missouri Power and Light Company*, Docket No. ER76–539 (issued May 16, 1979).

[67] Opinion No. 134 at 7 (footnote omitted). The omitted footnote cited Opinion No. 49, New England Power Co., issued July 19, 1979, *aff'd in part and remanded on other grounds, NEPCO Municipal Rate Committees, et al.*, v. *F.E.R.C.* et al., No. 80–1343 (D.C. Cir. October 15, 1981).

[68] *Order Establishing Interim Procedures*, Docket Nos. R–424 and R–447 (issued June 8, 1979).

series "fail[ed] to (1) assess the consequences of its action for the industry and (2) indicate 'fully and carefully' the purposes behind the order." [69] However, contrary to the declaration of East Tennessee, Order No. 530–B is not "void," "reversed," or a "nullity" as a result of that decision. Rather, the order was *remanded* to the Commission to rectify the shortcomings perceived by the court in its consideration of the issue. In other words, the Commission was not barred from applying the Order No. 530–B policy if it provided a sufficient justification or rationale for its application.

In addition, despite the claim of East Tennessee, the interim order did not exceed the holding of Order No. 530–B. The interim order did not permit an evidentiary presentation by intervenors or staff in support of, or in opposition to, tax normalization pending the outcome of the rulemaking unless the utility itself introduced evidence on the issue. East Tennessee contends that this procedure violates Order No. 530–B because, in East Tennessee's view, Order No. 530–B merely shifted the burden of proof from utilities to consumers rather than made a conclusive finding on the issue. East Tennessee is incorrect.

> Order No. 530–B stated: As we have concluded that there is no judicial bar to the allowance of normalization in these cases, we now believe there is no need for a specific factual showing supporting normalization in each rate proceeding, and the Commission's policy favoring normalization should be implemented in each case.[70]

Thus, Order No. 530–B provided no opportunity for intervenors or staff to present evidence on the question of permitting tax normalization of miscellaneous timing differences. To the extent that it differs from Order No. 530–B, the interim order gives greater rights to consumers and staff since they were permitted to present evidence in the event the utility also submitted evidence.

III. Conclusion

As the Commission stated in Order No. 144, our evaluation of the relative merits of tax normalization and flow-through is based on consideration of numerous factors. The Commission assessed these factors independently in its Notice. In addition, by providing for initial and reply comments, the Commission amassed a voluminous record in which all viewpoints were given ample airing. Where the Commission found error in a particular party's analysis or disagreed with a particular view expressed, the Commission explained the source of error or stated the cause of disagreement. As a result, the Commission believes it has fully considered and evaluated all of the relevant factors pertaining to the choice between tax normalization and flow-through.

As reiterated throughout the Notice, Order No. 144, and this order, the Commission finds that tax normalization more appropriately comports with sound regulatory principles than flow-through. The goals of equity and fairness in rates to consumers over time dominates the Commission's evaluation of tax normalization and flow-through because the essential difference in the two policies relates to the interperiod allocation of tax costs. Tax normalization better achieves the goals of equity and fairness because it matches benefits with burdens: it matches the recognition in rates over time of the tax effects of expenses and revenues with the expenses and revenues themselves.

While equity and fairness are important factors in the Commission's choice of tax normalization, they are by no means the only important factors weighed by the Commission. The Commission evaluated the impact of a tax normalization policy on consumer rates and found that, while higher rates may have resulted initially, the estimated impact on rates was not and is not likely to be substantial. The Commission also examined the effects of tax normalization on such factors as cash flow, cost of capital, rate of return, rate stability, and efficiency incentives. After thorough analysis, the Commission finds that tax normalization as compared to flow-through had either a beneficial impact or no impact upon each of these factors.

The Commission reviewed applicable legal standards and found that tax normalization meets the just and reasonable rate standards of the Federal Power and Natural Gas Acts. It found that tax normalization is more properly cost-based than flow-through and that it comports with the "actual taxes paid" principle on both legal and policy grounds. The Commission also reviewed the "tax savings versus tax deferral" issue and concluded (1) that neither utilities nor their investors realize a permanent or pure tax savings when tax normalization is applied to timing differences and (2) that a finding of evanescent versus continual tax deferral should not be the determinative policy consideration.

Upon careful consideration of the applications for rehearing of Order No. 144, the Commission is not persuaded that the rule contained therein should be modified in any respect. The petitions for rehearing are therefore denied.

IV. Redesignation

In its regulations, the Commission distinguishes between rules for filing rate schedules by electric utilities (Part 35) and rules for filing rate schedules by interstate natural gas pipelines (Part 154). To date, save for the general rules of practice and procedure, the Commission's regulations do not provide a single part for rules, like the tax normalization rule, that apply to both electric utilities and interstate natural gas pipelines. Because of this, the tax normalization rule was placed under Part 2 of the Commission's regulations, a part entitled "General Policy and Interpretations."

The tax normalization rule is neither a "policy" nor an "interpretation." Moreover, it is to be used by electric utilities filing rate applications under §§ 35.12 and 35.13 of Part 35 and by interstate pipelines filing rate applications under §§ 154.62 and 154.63 of Part 154. Because of this, the Commission has decided to place the text of the tax normalization rule that is now designed as § 2.202 under both Parts 35 and 154. To this end, non-substantive changes are made to the rule.

The redesignation of § 2.202 to Parts 35 and 154 is being done without prior notice or opportunity to comment. Because the changes are minor, non-substantive, and ensure a better presentation of the Commission's regulations, such procedures would be impracticable and unnecessary. For the same reasons, the redesignation of the rule is being made effective February 22, 1982.

The Commission orders that:

(A) The applications for rehearing of Cities Service, Com Ed, Cities, Public Systems, California, and East Tennessee as well as East Tennessee's petition to reopen the record are hereby denied.

(B) Ordering paragraph (A) of Order No. 144 is revised to read as follows:

> All wholesale electric utility and natural gas pipeline revenues attributable to tax normalization which continue to be held subject to refund in cases in which the Commission had otherwise finally decided cost of service issues prior to issuance of Order No. 144 shall no longer be subject to refund after the date of issuance of this order.

As revised, it is to be effective February 22, 1982.

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[69] *Public Systems* v. *FERC*, 606 F. 2d 973, 980 (D.C. Cir. 1979).

[70] Order No. 530–B at 9 (issued July 6, 1976).

(C) The amendments to Chapter I, title 18, Code of Federal Regulations, described in ordering paragraph (B) of Order No. 144 and set forth in Order No. 144, as redesignated and amended below, are effective February 22, 1982.

(Federal Power Act, 16 U.S.C. 792 *et seq.*; Natural Gas Act, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42. U.S.C. 7101, *et seq.*; E.O. 12009, 3 CFR 142)

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 35—FILING OF RATE SCHEDULES

§ 35.24 [Removed]

1. Section 35.24 of Part 35 is removed and reserved.

§ 2.202 Redesignated as § 35.25 and § 154.63a.

2. Section 2.202 of part 2 is transferred to Parts 35 and 154 and redesignated as § 35.25 and § 154.63a.

3. Newly designated § 35.25 is amended by revising its title and revising paragraph (a)(1) to read as follows:

§ 35.25 Tax normalization for public utilities.

(a) *Applicability.* (1) Except as provided in subparagraph (2) of this paragraph, this section applies, with respect to rate schedules filed under §§ 35.12 and 35.13 of this Part, to the ratemaking treatment of the tax effects of all transactions for which there are timing differences.

* * * * *

4. Newly designated § 35.25 is further amended by: removing the words "rate applicant" or "applicant" where they appear and inserting, in their place, the words "public utility"; and by removing subparagraph (d)(7) and redesignating subparagraphs (d)(8) and (d)(9) as subparagraphs (d)(7) and (d)(8), respectively.

PART 154—RATE SCHEDULES AND TARIFFS

5. Newly designated § 154.63a is amended by revising its title and revising paragraphs (a)(1) and (d)(7) to read as follows:

§ 154.63a Tax normalization for interstate pipelines.

(a) *Applicability.* (1) Except as provided in subparagraph (2) of this paragraph, this section applies, with respect to rate schedules filed by interstate pipelines under §§ 154.62 and 154.63 of this Part, to the ratemaking treatment of the tax effects of all transactions for which there are timing differences.

* * * * *

(d) *Definitions.* * * *

(7) For purposes of this section, "interstate pipeline" means a natural gas company engaged in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act.

* * * * *

6. Newly designated § 154.63a is further amended by removing the words "rate applicant" or "applicant" where they appear and inserting, in their place, the words "interstate pipeline".

APPENDIX.—SUMMARY OF BOOK AND TAX DEPRECIATION-RELATED TIMING DIFFERENCES FOR SIMPLIFIED EXAMPLE

Year	Tax deductions	–	Book depreciation	=	Total timing difference	=	A	+	B	+	C	+	D
0	$10		0		$10		$10		0		0		0
1	36		$10		26		(1)		$13.50		$4.50		$9
2	27		10		17		(1)		4.50		4.50		9
3	18		10		8		(1)		(4.50)		4.50		9
4	9		10		(1)		(1)		(13.50)		4.50		9
5	0		10		(10)		(1)		0		(18.00)		9
6	0		10		(10)		(1)		0		0		(9)
7	0		10		(10)		(1)		0		0		(9)
8	0		10		(10)		(1)		0		0		(9)
9	0		10		(10)		(1)		0		0		(9)
10	0		10		(10)		(1)		0		0		(9)
Total	100		100		0		0		0		0		0

A = Base differences.
B = Method differences (SYD and ADR straight-line life).
C = ADR straight-line life and guideline straight-line tax life differences.
D = Guideline straight-line tax life and straight-line book life differences.

[FR Doc. 82-5269 Filed 2-25-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76 (Colorado-8) Order No. 150]

High-Cost Gas Produced From Tight Formations; Correction

Issued July 16, 1981.[1]

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule in Docket No. RM79-76 (Colorado-8) that appeared in the **Federal Register** on June 9, 1981 (46 FR 30491). This action adds a subparagraph which was omitted from **Federal Register** publication because of an incorrect attachment to the Commission's order.

EFFECTIVE DATE: June 3, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8207.

The following corrections are made in FR Doc. 81-17079, appearing on page 30491 of the issue of June 9, 1981:

1. On page 30491, column 2, the amendatory language is corrected to read "§ 271.703(d) is amended by adding new subparagraphs (27) and (28) to read as follows:".

2. 18 CFR 271.703(d) is corrected by adding subparagraph (28) to read as follows:

§ 271.703 Tight Formations.

* * * * *

(d) * * *

(28) *Dakota Formation in Colorado.* RM79-76 (Colorado-8).

(i) *Delineation of formation.* The Dakota Formation is found in La Plata and Archuleta Counties, Colorado, underlying Township 34 North, Ranges 6 and 7 West (South of the Ute Line), Sections 1 through 36; and Township 34 North, Ranges 8 and 9 West (South of the Ute Line), Sections 1 through 24.

(ii) *Depth.* The Dakota Formation is defined as that formation the depth to the top of which averages approximately 7600 feet and the base of which is defined by the top of the Morrison Formation.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5144 Filed 2-25-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Received at the office of the **Federal Register** on Feb. 11, 1982, and released on Feb 23, 1982, for publication.

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978; Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission Energy.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8500.

Issued February 23, 1982.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of March 1982 is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar Year 1981												
Incremental Pricing Threshold	1.891	1.908	1.925	1.942	1.954	1.967	1.980	1.900	2.000	2.010	2.025	2.041
NGPA Section 102 Threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 percent of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar Year 1982												
Incremental Pricing Threshold	2.057	2.071	2.085									
NGPA Section 102 Threshold	3.003	3.033	3.063									
NGPA Section 109 Threshold	2.128	2.143	2.158									
130 percent of No. 2 Fuel Oil in New York City Threshold	9.180	9.340	9.470									

[FR Doc. 82-5288 Filed 2-25-82; 8:45 am]

BILLING CODE 6717-01-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Basin Regulations—Water Quality; Technical Amendment

AGENCY: Delaware River Basin Commission.

ACTION: Final rule—technical amendment.

SUMMARY: Basin Regulations—Water Quality, adopted by the Commission on March 7, 1968 and amended thereafter, have in the past been incorporated by reference and made part of Part 410 in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. It has been determined that the Commission is not subject to the provisions of the Administrative Procedure Act and that the approval of the Director of the Federal Register is not required to maintain the regulatory status of the Basin Regulations—Water Quality. Therefore, Part 410 is being amended to delete reference to the Administrative Procedure Act.

EFFECTIVE DATE: March 31, 1982.

FOR FURTHER INFORMATION CONTACT: W. Brinton Whitall, Secretary, Delaware River Basin Commission, 25 State Police Drive, Post Office Box 7360, West Trenton, New Jersey 08628, 609-883-9500.

PART 410—BASIN REGULATIONS—WATER QUALITY

Therefore, 18 CFR 410.1 Basin Regulations—Water Quality is amended by revising the section heading and paragraph (a) to read as follows:

§ 401.1 Basion regulations—Water quality.

(a) The provisions of the Basin Regulations—Water Quality adopted by the Delaware River Basin Commission on March 7, 1968, and amended through May 24, 1978, are hereby incorporated in and made a part of this Part 410. The regulations apply to all waste dischargers, public and private using the Delaware River or any of its tributaries making up the Delaware River Basin in New York, Pennsylvania, New Jersey and Delaware. Part I of the regulations comprises general definitions; Part II comprises interstate cooperation factors concerning administrative agreements and nonconforming standards adopted by the signatory parties; Part III comprises water quality standards adopted by the Commission on April 26, 1967; and, Part IV comprises the application of the water quality standards, including determination of water uses, water quality criteria, effluent requirements, ground water

quality requirements, and enforcement procedures.

* * * * *

W. Brinton Whitall,

Secretary.

[FR Doc. 82-5148 Filed 2-25-82; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 614

Unemployment Compensation for Ex-Servicemembers; New Schedule of Remuneration

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor amends 20 CFR 614.19, to increase the monthly rates of remuneration in the Schedule of Remuneration used to compute the Federal wages of ex-servicemembers covered by the program of Unemployment Compensation for Ex-Servicemembers (UCX Program). The new schedule will apply to new claims that are effective on and after January 1, 1982.

DATE: Effective date: January 1, 1982, with respect to first claims effective on and after that date.

ADDRESS: Send petitions concerning this revision to the U.S. Department of Labor, Employment and Training Administration, Room 7000, Patrick Henry Building, 601 "D" Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Bert Lewis, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, D.C. 20213, telephone: 202-376-7032. (this is not a toll-free number)

SUPPLEMENTARY INFORMATION: The UCX Program was established by the "Ex-Servicemen's Unemployment Compensation Act of 1958" and is now codified at Subchapter II of Chapter 85, in Title 5 of the United States Code (5 U.S.C. 8521-8525). It is a program of unemployment benefits for members of the armed forces and the commissioned corps of the National Oceanic and Atmospheric Administration following a qualifying separation from the services.

In most unemployment compensation programs, the benefit amounts payable to claimants are computed on the basis of the wages paid to each claimant in a designated base period. For the UCX Program, the statute provides that benefit amounts shall be computed on the basis of wages as prescribed in the current Schedule of Remuneration.

Section 8521(a)(2) requires the Secretary of Labor to issue, from time to time, after consultation with the Secretary of Defense, a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind. The Schedule of Remuneration adopted in accordance with the law has been revised from time to time as changes in military pay and allowances occur, and appears in 20 CFR 614.19. These new schedules adopted from time to time are made applicable to new claims that are effective on and after the first day of the quarter following the change in military pay. New claims established under a prior schedule are not changed.

The new Schedule of Remuneration in this document adjusts the scheduled monthly rates of pay upward to reflect the military pay increase that became effective on October 1, 1981, under Executive Order 12330. The new schedule set forth in this document is applicable with respect to first claims which are effective on and after January 1, 1982. The purpose in making this new schedule effective in the first quarter after the pay raise took effect is to regularize the effective dates of new schedules and thereby stabilize administration of the UCX Program and be fairer to claimants.

Early Effective Date

1. With an annual military pay increase having become customary, the Department adopted the policy of making each new schedule of remuneration effective at the beginning of the quarter following the quarter in which the pay increase took effect.

2. The new schedule reflecting the military pay increase is beneficial to UCX claimants, and imposes no direct costs on claimants, the military departments, or the private sector, because the program is financed entirely from a general fund appropriation. The State employment security agencies that administer the UCX Program in all States were fully informed of the new schedule in December 1981, and put the new schedule into effect as of January 1, 1982. The Secretary therefore concludes in this instance that omission of the prescribed rulemaking procedures is practicable, necessary to serve the beneficiaries, and consistent with the public interest in this program. Because this remuneration schedule is a benefit within the scope of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), a notice and comment period prior to issuance of a final rule is not required by law.

3. For the reasons set forth in paragraphs 1 and 2, the Secretary finds it appropriate to waive the policy set forth in 29 CFR 2.7. This waiver of 29 CFR 2.7 and the section 553(a)(2) exemption authorizes the new schedule to become effective immediately without a notice and comment period.

4. Pursuant to 5 U.S.C. 553(e), any person interested in this new schedule may petition for the amendment or repeal of the new schedule, by writing to the address given above on or before March 29, 1982, the publication of this new schedule.

Therefore, the Secretary of Labor finds that publishing the new schedule in this document in final form and for making the new schedule effective on January 1, 1982, is in the public interest.

Drafting Information

This document was prepared under the direction and control of the Administrator of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, N.W., Washington, D.C. 20213; telephone (202) 376-7032 (this is not a toll-free number).

Classification—Executive Order 12291

The rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of 100 million dollars or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction

The rule in this document will not increase the Federal paperwork burden on the private or public sectors under the Paperwork Reduction Act and Executive Order 12291, because no paperwork burden is involved in this rule.

Regulatory Flexibility Act

The Department believes that the rule in this document will have no "significant economic impact on a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 91 Stat. 1164, 5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because this rule only implements a change in an individual entitlement program, and thus no economic impact is expected with respect to any small entities. Accordingly, no regulatory flexibility analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the rule published hereinafter (20 CFR 614.19) will not have a significant economic impact on a substantial number of small entities, because this change is in an individual entitlement program and affects only individuals applying for benefits under the Unemployment Compensation for Ex-Servicemembers Program. Thus, no economic impact is expected with respect to small entities.

Signed at Washington, D.C. on February 23, 1982.

Raymond J. Donovan,

Secretary of Labor.

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

Accordingly, 20 CFR Part 614 is amended as follows:

1. The authority citation for Part 614 reads as follows:

Authority: 5 U.S.C. 8508; Secretary's Order No. 4–75, 40 CFR 18515; (5 U.S.C. 301). Interpret and apply Secs. 8521–8525 of Title 5, United States Code.

2. In Part 614, § 614.19 is revised to read as follows:

§ 614.19 Schedule of renumeration.

(a) The following Schedule of Remuneration is issued pursuant to 5 U.S.C. 8521(a)(2), and shall apply to first claims which are effective on or after January 1, 1982:

Pay grade	Monthly rate
(1) Commissioned officers:	
O–10	$5,548
O–9	5,546
O–8	5,544
O–7	5,541
O–6	4,800
O–5	3,908
O–4	3,228
O–3	2,700
O–2	2,164
O–1	1,599
(2) Warrant officers:	
W–4	3,056
W–3	2,453
W–2	2,140
W–1	1,845
(3) Enlisted personnel:	
E–9	2,727
E–8	2,301
E–7	1,966
E–6	1,673
E–5	1,404
E–4	1,186
E–3	1,036
E–2	958
E–1	876

For the purposes of computing pay for periods of less than one full month, the daily rate shall be used, which shall be one-thirtieth of the monthly rate.

(b) The Schedule of Remuneration published at 46 FR 7270 on January 23, 1981, remains applicable to first claims effective prior to the effective date of the new Schedule of Renumeration set forth in paragraph (a). The new schedule in paragraph (a) does not revoke the prior schedule or any preceding schedule or change the periods of time they were in effect.

(5 U.S.C. 8508, 8521(a)(2).)

Signed at Washington, D.C., on February 23, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82–5267 Filed 2–25–82; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 78N–0103]

Canned Vegetables; Amendment of Standard of Identity for Asparagus; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the provisions of the amended standard of identity for "Certain other canned vegetables" to provide for the optional use of ascorbic acid, erythorbic acid, and their sodium salts as antioxidants to preserve color in "white" and "green-tipped and white" asparagus.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun January 18, 1982.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 17, 1981 (46 FR 56409), FDA issued a final regulation amending the standard of identity for "Certain other canned vegetables" (21 CFR 155.200) to provide for the optional use of ascorbic acid, erythorbic acid, and their sodium salts as antioxidants to preserve color in "white" and "green-tipped and white" asparagus. Any person who would be adversely affected by the regulation could have, at any time on or before December 17, 1981, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), notice is given that the effective date for compliance with the standard of identity for "Certain other canned vegetables" (21 CFR 155.200) as amended in the **Federal Register** of November 17, 1981 (46 FR 56409) is July 1, 1983. Voluntary compliance may have begun January 18, 1982.

Dated: February 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–4901 Filed 2–25–82; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 173

[Docket No. 80F–0224]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Alpha-Alkyl-Omega-Hydroxypoly(Oxyethylene) and an Alkanolamide Derived by Condensation of Coconut Oil Fatty Acids With Diethanolamine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

food additive regulations to provide for the safe use of *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene) and an alkanolamide as delinting agents for cottonseed. This action is being taken in response to a petition filed by SSC Industries, Inc.

DATES: Effective February 26, 1982; objections by March 29, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 27, 1980 (45 FR 43474), FDA announced that a food additive petition (FAP 0A3506) had been filed by SSC Industries, Inc., East Point, GA 30344, proposing that Subpart D of Part 173 (21 CFR 173) of the food additive regulations be amended to provide for the safe use of *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene) and an alkanolamide derived by condensation of the fatty acids from coconut oil with diethanolamine as components of delinting agents for cottonseed used in the production of cottonseed oil, meal cake, and related products.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's findings of no significant impact and the supporting evidence, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) 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 173 is amended in Subpart D by adding new § 173.322 to read as follows:

§ 173.322 Chemicals used in delinting cottonseed.

Chemicals may be safely used to assist in the delinting of cottonseed in accordance with the following conditions:

(a) The chemicals consist of one or more of the following:

(1) Substances generally recognized as safe for direct addition to food.

(2) Substances identified in this paragraph and subject to such limitations as are provided:

Substances	Limitations
alpha-Alkyl-*omega*-hydroxypoly-(oxyethylene) produced by condensation of a linear primary alcohol containing an average chain length of 10 carbons with poly(oxyethylene) having an average of 5 ethylene oxide units.	May be used at an application rate not to exceed 0.3 percent by weight of cottonseeds to enhance delinting of cottonseeds intended for the production of cottonseed oil. Byproducts including lint, hulls, and meal may be used in animal feed.
An alkanomide produced by condensation of coconut oil fatty acids and diethanolamine, CAS Reg. No. 068603–42–9.	May be used at an application rate not to exceed 0.2 percent by weight of cottonseeds to enhance delinting of cottonseeds intended for the production of cottonseed oil. Byproducts including lint, hulls, and meal may be used in animal feed.

(b) [Reserved]

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 29, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 26, 1982.

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

Dated: February 19, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–5132 Filed 2–25–82; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 510 and 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Nitrofurazone Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Biomed Laboratories providing for the use of nitrofurazone solution as a topical antibacterial on dogs, and cats, and horses.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Biomed Laboratories, 4542 Denver St., Montclair, CA 91763, is sponsor of a NADA (126–950) providing for use of a solution containing 0.2 percent nitrofurazone as a topical antibacterial on dogs, cats, and horses. This product is similar to another product codified in 21 CFR 524.1580d (46 FR 22359, April 17, 1981). The section provides that because the conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include effectiveness data as specified by 21 CFR 514.111. The product is intended solely for topical use, therefore

the requirement for bioequivalency data is waived under 21 CFR 320.22(b)(2). Also, the regulation is editorially revised to reflect current wording which is identical in content to that in the existing regulation. In addition, the firm has not previously been listed in section 510.600(c) in the list of sponsors of approved NADA's. The application is approved and the regulations are amended accordingly.

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

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

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 524 are amended to read as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Name, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Biomed Laboratories, 4542 Denver St., Montclair, CA 91763	051259
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
051259	Biomed Laboratories, 4542 Denver St., Montclair, CA 91763.
* * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 524 is amended by revising § 524.1580d to read as follows:

§ 524.1580d Nitrofurazone solution.

(a) *Specifications.* The drug is an aqueous solution containing 0.2 percent nitrofurazone.

(b) *Sponsor.* See 000857 in § 510.600(c) of this chapter for use as in paragraphs (d) (1) and (2) of this section. See 051259 in § 510.600(c) of this chapter for use as in paragraph (d)(1) of this section.

(c) *NAS/NRC status.* These conditions are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(d) *Conditions of use.* (1) *Dogs, cats, and horses.* (i) *Indications for use.* For the treatment of topical bacterial infections.

(ii) *Amount.* Apply directly to affected areas, or dilute and apply as a wet dressing.

(iii) *Limitations.* For surface bacterial infections apply directly to lesions. For wet dressing, dilute with two or three parts sterile water or saline and apply several times daily or beneath dressing for several days. In case of deep or puncture wounds or serious burns, consult a veterinarian. If redness, irritation, or swelling increases or persists, discontinue use and consult a veterinarian. Not for use for horses intended for food.

(2) *Horses.* (i) *Indications for use.* For equine genital tract infections and for impaired fertility due to strains of Salmonella, Staphylococcus, Streptococcus, Pseudomonas, *Escherichia coli,* and *Vibrio fetus* sensitive to nitrofurazone.

(ii) *Amount.* For female equine genital tract infections, instill aseptically 30 to 90 milliliters into affected areas once daily. For impaired fertility instill 30 milliliters into the uterus 4 to 48 hours after breeding.

(iii) *Limitations.* For treatment of genital tract infections, repeat treatment until 48 hours after remission of clinical symptoms or bacterial cultures show recovery. Do not use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This amendment is effective February 26, 1982.

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

Dated: February 19, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–5131 Filed 2–25–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 520

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

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Med-Tech, Inc., providing for safe and effective use of diethylcarbamazine citrate chewable tablets for prevention of heartworm disease and control of ascarid infections in dogs, and treatment of ascarid infections in dogs and cats.

EFFECTIVE DATE: February 26, 1982.

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

SUPPLEMENTARY INFORMATION: Med-Tech, Inc., P.O. Box 338, Elwood, KS 66024 filed an NADA (128–069) providing for use of 30, 60, 120, and 180 milligram (mg) diethylcarbamazine citrate chewable tablets for prevention of heartworm disease in dogs caused by *Dirofilaria immitis,* as an aid in the treatment and control of ascarid infections in dogs caused by *Toxocara canis,* and as an aid in the treatment of ascarid infections in cats caused by *Toxocara canis* and *Toxascaris leonina.*

The product is similar to another tablet that was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) review which was published in the **Federal Register** of January 8, 1969 (34 FR 275).

The NAS/NRC review stated, and the agency concurred, that diethylcarbamazine is probably not effective as a treatment against filariasis, that more information is needed regarding the dosage level to support claims for prevention of filariasis, and that the drug is effective as an aid in the treatment of ascarid infections in dogs and cats when administered at 25 to 50 mgs per pound of body weight as a single dose with a repeat dose given after 10 to 20 days. Sponsors of NADA's for products which did not reflect the conclusions of the notice were required to update their applications by submitting revised labeling or adequate documentation to support the labeling used. Those sponsors whose NADA's satisfied the requirements of the NAS/NRC notice or were found equivalent to the NAS/NRC reviewed products are codified in the regulations in 21 CFR 520.620 and 520.622.

A NAS/NRC review of another dosage form, diethylcarbamazine medicated premix, was published in the **Federal Register** of June 16, 1970 (35 FR 9869). The review concluded that the product is probably effective, and the agency concluded that it is effective, as an aid in the prevention and elimination of large roundworms (ascarids) in dogs when given as directed. The review established the effectiveness of the drug for use in prevention of ascarid infections.

Med-Tech, Inc., submitted data from a controlled artificial challenge study, a palatability study, and reprints from published scientific literature to demonstrate that diethylcarbamazine is safe and effective for use as labeled for use in prevention of heartworm disease. The agency granted a waiver from the requirements of 21 CFR 514.111(a)(5)(ii) for further studies to provide substantial evidence of effectiveness for that claim. The claims for control and treatment of ascarid infections are approved on the basis of the NAS/NRC reviews. The NADA is approved and the regulations are amended to reflect the approval.

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

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

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

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR Part 5.83), Part 520 is amended in § 520.622c by adding a new paragraph (b)(6) to read as follows:

§ 520.622c Diethylcarbamazine citrate chewable tablets.

(b) * * *

(6) For 013983, use of 30, 60, 120, or 180 milligram tablets as in paragraph (c)(2)(i) of this section.

* * * * *

Effective date. This amendment is effective February 26, 1982.

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

Dated: February 18, 1982.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 82–4896 Filed 2–25–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Carl S. Akey, Inc., providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., P.O. Box 607, Lewisburg, OH 45338, is the sponsor of NADA 127–507 submitted on its behalf by Elanco Products Co. The NADA provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentery (vibrionic), and control swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12–491 and 41–275. Use of the data in NADA's 12–491 and 41–275 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data in NADA's 12–491 or 41–275.

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

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

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive

Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by revising paragraph (b)(9) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(9) To 017790, 022422: 5 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. This amendment is effective February 26, 1982.

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

Dated: February 18, 1982.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 82-4897 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records; Extension of Partial Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay.

SUMMARY: OSHA is hereby extending the partial administrative stay of the access to employee exposure and medical records regulation, 29 CFR 1910.20, for the flavor and fragrance industriews for one year, to February 15, 1983.

DATE: The flavor and fragrance stay is extended to February 15, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information and Consumer Affairs, OSHA, Room N-3641, Third Street and Constitution Avenue, NW., Washington, D.C. 20210 (202-523-8151).

SUPPLEMENTARY INFORMATION: On August 7, 1981, OSHA extended the partial stay of 29 CFR 1910.20 for the flavor and fragrance industries to February 15, 1982, to allow OSHA to treat the issues presented by the flavor and fragrance industry as part of its overall review of the records access standard. OSHA does not now anticipate completion of this review and subsequent rulemaking before February 15, 1983, and therefore is extending the partial stay to that date.

The full text of the administrative stay was published in the August 7, 1981, **Federal Register** (46 FR 40491).

(Secs. 6(b), 8(g), 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); sec. 4 of the Administrative Procedure Act (5 U.S.C. 553))

Signed at Washington, D.C., this 23rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-5170 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 631

Army Regulation 190-24, Armed Forces Disciplinary Control Boards and Off-Installation Military Enforcement Services

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army has revised its regulation for dealing with civilian establishments which pose a threat to the health, welfare or morale of service members, and for employing military law enforcement officers outside of U.S. government installations. The change is required to provide guidance to military commanders who must deal with civilian establishments on problems that effect their commands, and to provide guidelines for the employment of military police in civilian communities. The guidelines insure that due process is followed in putting establishments "off-limits" to military personnel, and to insure that the "Posse Comitatus Act", which prohibits the military from enforcing civilian laws, is not violated by military law enforcement personnel who operate outside of military installations.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Major John T. Donohue, (202) 756-1896.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 54964-54972 of the **Federal Register** of November 5, 1981, and invited comments for 30 days ending December 5, 1981. Comments were received from two sources. The following summarizes the comments, suggestions, and actions taken.

Comment one: Because policy of the U.S. Marine Corps on off-installation enforcement activities varies somewhat from the U.S. Navy policy, a separate section should be added on their policy.

Action taken: Section 631.17 was added after 631.16 of the proposed rule to clearly state the Marine policy. Subsequent paragraphs in the proposed rule were renumbered.

Comment two: One individual made the following recommendations:

—Delete the terms "morals," "decency" and the phrase "and the safeguarding of morals" wherever found in the regulation, because they are subjective, "incurably vague," and "raise questions of intellectual freedom."

—Eliminate suppression of "prostitution and venereal disease" as an area of concern for Armed Forces Disciplinary Control Boards.

—Prohibit chaplains from participating in any way in board procedures on the grounds that they will inject "the moral precepts of particular religions."

—Publicize board meetings.

Action taken: These suggestions were not integrated into the regulation because:

—Experience has shown that a commander must enforce minimum standards of moral conduct if the efficiency of his organization is to be unimpaired. Traditionally, individuals have been permitted the maximum discretion possible in the selection of their personal code of conduct, and commanders have intervened only when their actions adversely affect the command. The establishment of off-limits areas is a function of command, and off-limits sanctions may only be invoked when substantive information indicates an establishment or area frequented by armed forces personnel presents conditions that are adversely effecting the health, safety, morale, welfare, or morals of the command.

—To the extent that substantive information indicates that prostitution and venereal disease is adversely affecting the command, it is properly a matter of concern to the commander.

—Military chaplains have a much broader role within the armed services than do ministers in a civilian community. They are responsible for advising the commander on matters affecting the morale and welfare of his soldiers. They provide a mechanism for surfacing and responding to problems affecting junior soldiers. They are

uniquely qualified to participate in board proceedings.

—The intent of restricting publicity on Armed Forces Disciplinary Control Board meetings is to protect businesses or individuals against whom allegations of impropriety have been made. All individuals or businesses who are the subject of allegations have the opportunity to address the board. If they desire, they may make the issues public or challenge board actions in court. These options offer adequate safeguards against board violations of the public trust. The advantages of publicizing board meetings do not outweigh the possible damage to parties who are accused of wrong doing.

Accordingly, 32 CFR is amended by adding a new Part 631.

Dated: October 28, 1981.

John O. Roach II,

Army Liaison Officer with the Federal Register.

PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION MILITARY ENFORCEMENT SERVICES

Subpart A—General

631.1 Purpose.
631.2 Applicability.
631.3 Supervision.
631.4 Exceptions.

Subpart B—Armed Forces Disciplinary Control Boards

631.5 General.
631.6 Responsibilities.
631.7 Composition of boards.
631.8 Civil agencies.
631.9 Duties and functions of boards.
631.10 Administration.
631.11 Off-limits establishments and areas.

Subpart C—Off-Installation Military Enforcement Services

631.12 Objectives.
631.13 Applicability.
631.14 Responsibilities.
631.15 Policy (for Army only).
631.16 Policy (for Navy only).
631.17 Policy (for Marine Corps only).
631.18 Policy (for Air Force only).
631.19 Operations.

Subpart D—Joint Service Law Enforcement Operations

631.20 Organization.
631.21 Joint law enforcement operations.
Appendix A—Civil Agencies
Appendix B—Armed Forces Disciplinary Control Board Procedures Guide

Authority: 10 U.S.C. 3012(b)(1)(g).

Subpart A—General

§ 631.1 Purpose.

This regulation prescribes uniform policies and procedures for the establishment, operation, and coordination of the following:

(a) Armed Forces Disciplinary Control Boards (AFDCB).

(b) Off-installation military enforcement activities.

(c) Joint law enforcement operations.

§ 631.2 Applicability.

This regulation applies to the following:

(a) Active US Armed Forces personnel wherever they are stationed. Commanders in oversea areas are authorized to deviate from the policy in this regulation if required by local conditions, treaties, agreements, and other arrangements with foreign governments and allied forces. Subparts C and D are not applicable to the US Navy.

(b) Reserve personnel only when they are performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function.

(c) National Guard personnel only when called or ordered to active duty in Federal status.

§ 631.3 Supervision.

(a) The following will jointly develop and have staff supervision over AFDCB policies and the conduct of off-installation military enforcement activities:

(1) The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

(2) Chief of Naval Personnel (PERS-84).

(3) Commandant of the Marine Corps.

(4) Chief of Security Police, Air Force Office of Security Police, Department of the Air Force.

(5) Commandant of the Coast Guard.

(b) The above will also be responsible to standardize AFDCB policies and procedures as well as to coordinate and maintain liaison with interested staff agencies and other military and civil agencies.

§ 631.4 Exceptions.

Requests for exceptions to policies contained in this regulation will be forwarded to HQDA(DAPE-HRE-PO), WASH, DC 20310.

Subpart B—Armed Forces Disciplinary Control Boards

§ 631.5 General.

(a) Armed Forces Disciplinary Control Boards (AFDCBs) may be established by installation, base, or station commanders. The mission of AFDCBs is as follows:

(1) Advise and make recommendations to commanders on matters concerning the elimination of crime or other conditions which may negatively affect the health, safety, morals, welfare, morale, or discipline of Armed Forces personnel.

(2) Insure the establishment and maintenance of the highest degree of liaison and coordination between military commands and appropriate civil authorities.

(b) Where installations of two or more military Services are located or which are frequented by personnel of two or more Services, there will be joint Service participation in any AFDCB. In such cases, the commander of the Service with the greatest number of troops will serve as the "sponsoring commander" of the board. When there is joint participation in AFDCBs, written agreements will be executed by the respective Service installation commanders. These agreements will designate the sponsoring commander and delineate the joint Service participation.

§ 631.6 Responsibilities.

(a) Major Army commanders, Navy commanders, Marine Corps commanders, Air Force commanders, and Coast Guard commanders will—

(1) Monitor the establishment of and participation in AFDCBs by subordinate commands.

(2) Encourage subordinate commanders to participate in joint Service boards where appropriate.

(3) Resolve differences among subordinate commanders in regard to board areas of responsibility and the designation of sponsoring commanders.

(4) Evaluate board recommendations and actions from subordinate sponsoring commanders.

(5) Forward to HQDA (DAPE-HRE), WASH, DC 20310, reports that require Service headquarters action to accomplish the following:

(i) Correct situations which would adversely affect the health, safety, morals, welfare, morale, or discipline of Armed Forces personnel.

(ii) Surface positive programs having widespread applicability.

(6) Insure procedures are established to notify the responsible individuals to insure that off-limits restrictions are made known and applicable to all Armed Forces personnel who may frequent the area in question. These would be off-limits restrictions approved and so declared by subordinate sponsoring commanders.

(7) Insure that subordinate commanders assess the availability of drug abuse paraphernalia in the vicinity of DOD installations through their AFDCBs in accordance with DOD Directive 1010.4, Alcohol and Drug

Abuse by DOD Personnel. Drug abuse paraphernalia is defined as all equipment, products, and materials of any kind that are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act.

(b) In each AFDCB area, the commander of the installation with the largest base population will be designated the AFDCB sponsoring commanders. Sponsoring commanders will provide administrative support, as shown below, for the AFDCB programs.

(1) Promulgate implementing directives and call meetings of the board.

(2) Provide a recorder for the board.

(3) Provide copies of the minutes of the meetings of the board to—

(i) Other Service commanders who provide board representatives.

(ii) BUPERS (for Navy only).

(iii) Other AFDCBs as appropriate.

(4) Approve or disapprove the minutes and recommendations of the board and make appropriate distribution, as required.

(5) Publish lists of "off-limits" establishments and areas.

(6) Insure notification to the responsible individuals of any unfavorable actions being contemplated or taken regarding their establishments in accordance with appendix B.

(7) Distribute all pertinent information to the following:

(i) All units within their jurisdictional area.

(ii) Units stationed in other areas whose personnel frequently visit their jurisdictional area.

(c) (for Army only). Commanders of Army installations depicted in Map 18, AR 5–9, are responsible for coordinating activities of AFDCB in their areas. They may serve as sponsoring commanders or participate as members of Joint Service Boards. They may approve the establishment of separate AFDCB for Army installations within their area when it is in the best interest of the Army to do so. Changes in AFDCB areas of responsibility may be approved by MACOMs of installations concerned.

(d) (for Army only). The Commander, US Army Health Services Command will—

(1) Assure that subordinate commanders provide *one* of the following to sit as a member of each established board—

(i) A Medical Corps officer.

(ii) A health and environment oriented Medical Service Corps (MSC) officer of the Army Medical Department (AMEDD).

(2) Encourage subordinate commanders to—

(i) Maintain liaison with other governmental and civilian health agencies to detect unsafe or unhealthy conditions within the geographic area of each supported board.

(ii) Advise the board of conditions which adversely affect Armed Forces personnel.

§ 631.7 Composition of boards.

(a) Each board shall, as a minimum, consist of representatives from the following functional areas:

(1) Law enforcement.

(2) Legal.

(3) Health and environment.

(4) Public affairs.

(5) Equal opportunity.

(6) Safety.

(7) Chaplains.

(8) Alcohol and drug abuse.

(9) Personnel and community activities.

(b) Sponsoring commanders will determine, by position, which board members will be designated as voting members. Such designations will be included in the written agreements establishing the boards.

(c) Normally the sponsoring commander will designate a member of his staff as the board President.

§ 631.8 Civil agencies.

(a) Civil agencies or individuals may be invited to board meetings as observers or witnesses in jurisdictions where they have knowledge of problems in the board's area of interest. These would be civil agencies or individuals concerned with law enforcement, public health, welfare, consumer affairs, and the safeguarding of morals.

(b) Boards should be used to establish and maintain liaison between installations and civil agencies. A recommended method is to mail announcements and summaries of the results of board meetings to appropriate civil agencies. These agencies include, but are not limited to, those found in appendix A.

§ 631.9 Duties and functions of boards.

The AFDCBs will—

(a) Meet in session as prescribed by the AFDCB Procedures Guide in appendix B.

(b) Receive and take appropriate action on reports of conditions in their jurisdictional areas relating to any of the following:

(1) Lack of discipline.

(2) Prostitution.

(3) Venereal disease.

(4) Liquor violations.

(5) Racial and other discriminatory practices.

(6) Alcohol and drug abuse.

(7) Drug abuse paraphernalia.

(8) Disorder.

(9) Illicit gambling.

(10) Unfair commercial or consumer practices.

(11) Other undesirable conditions that may adversely affect members of the military or their families.

(c) Report the following to all major commanders in the board's area of jurisdiction:

(1) Any conditions cited in paragraph (b) of this section.

(2) The board's recommended action as approved by the board's sponsoring commander.

(d) Conduct active liaison with appropriate civil authorities on problems or adverse conditions existing in the board's area of interest.

(e) Make recommendations to commanders in the board's area of jurisdiction concerning off-installation procedures to prevent or control undesirable conditions.

§ 631.10 Administration.

(a) Commanders are authorized to acquire, report, process, and store information concerning persons and organizations, whether or not affiliated with the Department of Defense (DOD) (AR 380–13), which:

(1) Adversely affects the health, morals, welfare, morale, or discipline of Armed Forces personnel regardless of status.

(2) Describes crime conducive conditions of which Armed Forces personnel may become victims.

(b) Information described in (a) above may be filed by organization; however, it will not be retrievable on the basis of individual personal identification date, e.g., SSN, name, or address. The information should be retained only as long as the described conditions or threat to the welfare of Armed Forces personnel continues to exist.

(c) Boards will function under the supervision of a president.

(d) Certain expenses incurred by Service members in the course of an offical board investigation or inspection may be reimbursable. This would be done in accordance with appropriate Service finance regulations or instructions. These requests should be submitted to the sponsoring Service

finance office and charged to the appropriate law enforcement account. (For the Army, this account is the T6 account.)

(e) Records of board proceedings will be maintained as prescribed by records management policies and procedures for the Service of the sponsoring commander.

§ 631.11 Off-limits establishments and areas.

(a) An "off-limits" area is defined as any vehicle, conveyance, place, structure, building, or area prohibited to military personnel to use, ride, visit, or enter during the period in which it may be declared off-limits. As a matter of policy, the change in ownership, management, or name of any off-limits establishment does not, in and of itself, revoke the off-limits restriction.

(b) The establishment of off-limits areas is a function of command. It may be used by commanders to help maintain good discipline and an appropriate level of good health, morale, safety, morals, and welfare of Armed Forces personnel. Off-limits action is also used to preclude Armed Forces personnel from being exposed to crime conducive conditions or from becoming the victims of crimes. Where sufficient cause exists, commanders retain substantial discretion to declare establishments or areas temporarily off-limits to personnel or their respective command in emergency situations. Temporary off-limits restrictions issued by commanders in an emergency situation will be acted upon by the AFDCB on a priority basis.

(c) Armed Forces personnel are prohibited from entering establishments or areas declared off-limits in accordance with this regulation. Violations may subject the individual to disciplinary action under the Uniform Code of Military Justice (UCMJ). As general policy, these establishments will not be visited by military law enforcement personnel unless circumstances warrant.

(d) Prior to initiating routine off-limits action, installation commanders will attempt to correct, through contact with local civilian leaders, any adverse condition or situation. If these actions are unsuccessful, commanders will submit reports, requesting off-limits action, to the AFDCB serving their area.

(e) The AFDCB, prior to recommending off-limits restriction, will send written notice of the alleged adverse condition or situation, by certified mail with return receipt requested, to the individual or firm responsible for the alleged condition or situation. In this notice, the AFDCB will offer a reasonable time to correct the condition or situation and provide the individual or a designated representative with the opportunity to present any relevant information to the board. (See sample letter at annex A to app B.) If subsequent investigation reveals a failure by the responsible person to take corrective action, the board should recommend the imposition of the off-limits restriction.

(f) A specified time limit will not be established when an off-limits restriction is invoked. The adequacy of the corrective action taken by the proprietor of the establishment will be the determining factor in removing an off-limits restriction.

(g) A person whose establishment or area has been declared off-limits may, at any time, petition the president of the board for removal of the off-limits restriction. The petition will be in writing. It should state, in detail, the action taken to eliminate the adverse conditions or situations that caused the imposition of the restriction. In response to the petition, the President of the AFDCB may cause a thorough investigation to be made of the status of these adverse conditions or situations. A report of the results of the investigation would be presented to the board. The board then will either recommend removal or continuation of the off-limits restriction to the local sponsoring commander.

(h) Off-limits procedures to be followed by the boards are in appendix B. In the United States, off-limits signs will not be posted on civilian establishments by US military authorities.

Subpart C—Off-Installation Military Enforcement Services

§ 631.12 Objectives.

The primary objectives of off-installation enforcement are to—

(a) Render assistance and information to Armed Forces personnel.

(b) Reduce the incidence of off-installation military offenses committed by Armed Forces personnel.

(c) Enforce the UCMJ and other pertinent regulations, directives, and orders among persons subject to the UCMJ.

(d) Maintain effective liaison and cooperation with civil law enforcement and judicial agencies.

(e) Enhance apprehension efforts and return to military control absentees and deserters wanted by the Armed Forces.

(f) Maintain good community relations.

(g) Assist in the return of military members detained by civil authorities to military control.

§ 631.13 Applicability.

This chapter applies to off-installation enforcement activities. It does not apply to the activities of AFDCBs which were discussed in subpart B. It is not applicable to the U.S. Navy.

§ 631.14 Responsibilities.

(a) Commanders of military installations will recognize the responsibility of civil authorities for the maintenance of peace and order in those areas not under military jurisdiction or control. They should—

(1) Conduct off-installation law enforcement in accordance with applicable Service policies and procedures.

(2) Coordinate the liaison functions to accomplish the objectives outlined in paragraph 3–1.

§ 631.15 Policy (for Army only).

(a) Within CONUS.

(1) Normally, off-post patrols will not be established in CONUS. However, MACOM commanders may authorize military police to establish off-installation patrols if needed—

(i) In conjunction with military operations.

(ii) To safeguard the health and welfare of Army personnel.

(iii) When the type of offenses or the number of military personnel frequenting an area is large enough to warrant such patrols.

(2) In view of the important legal implications involved (see 18 U.S.C. 1385, the Posse Comitatus Act), the advice of the local Staff Judge Advocate should be sought prior to the implementation of such an authorization. When possible, MACOM commanders will execute a mutually acceptable written agreement with the civil police authorities.

(b) OCONUS. Off-post patrols will be kept at a minimum for mission accomplishment. Commanders of MACOMs may authorize off-post patrols as required by local conditions and customs as long as these patrols are in accordance with applicable treaties and Status of Forces Agreements.

(c) Military police personnel selected for off-post patrols must be experienced in law enforcement and have mature judgment. They must be thoroughly familiar with all applicable agreements and implementing standard operating procedures. They must understand the implications of the Posse Comitatus Act as it pertains to military law

enforcement personnel assisting local law enforcement agencies.

(d) At a minimum, instructions to military police assigned to off-post patrols will specifically state that if they accompany civil police, they will do so for the sole purpose of enforcing the UCMJ among persons subject to the code. Their instructions will also specifically state that they are under the command and directly responsible to their military superiors and that they exercise no authority over the civil police or the civil populace. Accordingly, military police should be instructed that they are not to exercise any authority in a case of misconduct or apparent law violation unless the person concerned has been identified as a member of the military service. However, military law enforcement personnel may come to the aid of civil police in order to prevent the commission of a felony or injury to a civilian police officer.

§631.16 Policy (for Navy only).

(a) Off-base law enforcement activities by naval personnel (CONUS and Hawaii) shall be limited to liaison functions with civilian law enforcement agencies and courts and to the acceptance of "courtesy turnovers."

(b) The court liaison function is limited to the provision of an official Navy point of contact for the courts, to the provision of advice for individuals and local commands, and to court appearance with individuals from deployed commands.

(c) Courtesy turnovers will be limited to those persons whose behavior and attitude are acceptable and who desire to be returned to the custody of their parent command.

(d) Courtesy turnovers will be accepted from jails, police stations, etc., but not directly from police officers on the scene of an incident.

§631.17 Policy (for Marine Corps only).

(a) Within CONUS.

(1) Normally, off-installation patrols will not be established in CONUS. However, installation commanders may request authority from HQMC (Code MPH) to establish off-installation patrols if needed.

(i) In conjunction with military operations.

(ii) To safeguard the health and welfare of Marine personnel.

(iii) When the type of offenses or the number of military personnel frequenting an area is large enough to warrant such patrols.

(2) In view of the important legal implications involved (see 18 U.S.C. 1382, the Posse Comitatus Act as made applicable to DoN) the advice of the local staff judge advocate/legal officer should be sought prior to the implementation of such an authorization. When possible, installation commanders will execute a mutually acceptable written agreement with the civil police authorities.

(b) Overseas Areas. Off-installation patrols will be kept at minimum for mission accomplishment. Commanders of installations may authorize off-installation patrols as required by local conditions and customs as long as these patrols are in accordance with applicable treaties and Status of Forces Agreements.

(c) Personnel selected for off-installation patrols must be experienced in law enforcement and have mature judgment. They must be thoroughly familiar with all applicable agreements and implementing standard operating procedures. They must understand the implications of the Posse Comitatus Act as it pertains to military law enforcement personnel assisting local law enforcement agencies.

(d) At a minimum, instructions to military police assigned to off-installation patrols will specifically state that if they accompany civil police, they will do so for the sole purpose of enforcing the UCMJ among persons subject to the code. Their instructions will also specifically state that they are under the command and directly responsible to their military superiors and that they exercise no authority over the civil police or the civil populace.

Accordingly, military police should be instructed that they are not to exercise any authority in a case of misconduct or apparent law violation unless the person concerned has been identified as a member of the military service. However, military law enforcement personnel may come to the aid of civil police in order to prevent the commission of a felony or injury to a civilian police officer.

(e) Absentee and deserter collection units to accept active duty absentee or deserter military personnel from civilian authorities may be established.

(f) Civil police and civil court liaison may be established.

(g) Installation commanders are authorized to establish other activities deemed necessary, provided each activity is within the scope of military purpose and authority, i.e., apprehensions where authorized by UCMJ, courtesy patrols, etc.

§631.18 Policy (for Air Force only).

See section B, AFR 125–19, for Air Force policy on off-installation patrols.

§631.19 Operations.

(a) In CONUS, incidents occurring off-installation normally are investigated by civil law enforcement agencies. These include State, county, or municipal authorities or a Federal investigative agency. When an incident of substantial interest to the U.S. Army occurs off-installation, the Armed Forces law enforcement organization exercising area responsibility will obtain copies of the civil law enforcement report. These are incidents that involve Army property or personnel. The civil law enforcement report would be processed according to applicable Service regulations.

(b) In oversea areas, off-installation incidents will be investigated in accordance with Status of Forces agreements and other appropriate U.S.-host country agreements.

(c) Off-installation enforcement operations may include the following activities:

(1) Town patrol.

(2) Town military police.

(3) Air Force Security Police patrols and stations.

(4) Civil police and civil court liaison.

(5) Public carrier and civilian transportation terminal patrols.

(6) Acceptance of active duty absentee or deserter military personnel turned over to Service police by civilian authorities.

(7) Other activities deemed necessary, provided each activity is within the scope of military purpose and authority.

(d) Activities in c above will be performed according to the Service policies in §§ 631.15–631.17. They will be based on the need and the fiscal and manpower restraints imposed by each Service. If practical, mutual agreements between two or more Services may be made to facilitate the conduct of joint Service off-installation enforcement services and absentee apprehension functions.

(e) Armed Forces law enforcement personnel will—

(1) Act under the command of, and be responsible to, military superiors and will not be placed under the control of civil authorities.

(2) Exercise authority over civil law enforcement agencies or persons not subject to the UCMJ only when they are on a military installation.

(3) Be authorized to apprehend persons subject to the UCMJ when there exists a reasonable belief that an offense under the code has been committed and that the person to be apprehended committed the offense. Civilians committing offenses on US military installations may be detained

for the appropriate Federal, State, or local law enforcement agency.

(4) Return apprehended persons to representatives of their respective Services as soon as practicable.

(5) Process all reports received from other law enforcement agencies concerning crimes committed by military personnel, involving military property, or in which DOD has an interest.

Subpart D—Joint Service Law Enforcement Operations (Not Applicable to US Navy)

§ 631.20 Organization.

In localities frequented by personnel of more than one Service, installation commanders may consider the establishment of joint law enforcement operations. Such operations may provide a more effective and economical accomplishment of off-installation law enforcement. When such operations are established, participating installation commanders will—

(a) Execute written agreements concerning the operations.

(b) Insure that each participating organization contributes its proportionate share of personnel, equipment, and supporting facilities.

§ 631.21 Joint law enforcement operations.

The following procedures will apply when establishing joint law enforcement operations:

(a) *Personnel.* Enlisted personnel selected for joint law enforcement duty should meet the following qualifications:

(1) Be temperamentally suited for police duty and received training or have experience in law enforcement.

(2) Be 19 years of age or older.

(3) Have no record of court-martial convictions or civilian offenses other than minor traffic violations.

(4) Be at least 5 feet 4 inches tall.

(5) Meet General Classification Test (GCT) (or equivalent test) score requirements of the parent Service for assignment to police duty.

(6) Possess a military motor vehicle operators license.

(7) Have at least 12 months remaining on current enlistment.

(b) *Logistics.* Personnel assigned to joint patrols will be equipped as prescribed by their respective Service regulations or directives to include the symbol of their law enforcement authority (badge or brassard).

(c) *Functions.* Joint law enforcement operations will perform, at a minimum, the following functions:

(1) Provide assistance to all Armed Forces personnel who are charged with civil violations.

(2) Maintain liaison with civilian enforcement and judicial agencies.

(3) Have the capability to receive military personnel apprehended by civilian authorities.

(d) *Duty assignments.* Personnel assigned to perform joint operations may be further assigned to perform duties in any of the following functional areas:

(1) Police station operation (desk sergeants, desk clerks, radio operators, etc.).

(2) Motor patrols necessary to conduct police and court liaison and to transport military personnel from the local civilian police.

(3) Operations.

(4) Administration.

Appendix A—Civil Agencies

A–1. *American Social Health Association.*

The American Social Health Association, upon request, provides information and consultation in the fields of venereal disease and drug abuse. Local AFDCBs desiring information should apply through one of the following regional offices of the association:

Eastern Regional Director, 86 Farmington Ave., Hartford, Connecticut 06105

Middle America Regional Director, 110 North High Street, Gahanna, Ohio 43230

Southern Regional Director, 173 Walton Street, NW., Atlanta, Georgia 30303

Western Regional Director, 785 Market Street, Rm. 1010, San Francisco, California 94103

A–2. *United States Brewers Association.*

a. The United States Brewers Association is the trade and public relations agency of the organized brewing industry in the United States. Upon request, it will assist military authorities within CONUS to eliminate conditions detrimental to the health, morals, and welfare of members of the Armed Forces in the cities and communities adjacent to military installations.

b. This association conducts an Armed Forces cooperation program to further "self-regulation" activities among beer dealers. It cooperates with State and local law enforcement officials in the promotion and maintenance of proper conditions in retail beer outlets throughout the country. Its services are available to AFDCBs for furthering joint action in the promotion of law observance and the maintenance of conditions of cleanliness and decency in retail beer outlets patronized by members of the Armed Forces.

c. Local sponsoring commanders requesting the assistance of the Brewers Association may apply to the Director of Field Services, US Brewers Association, Inc., 1750 K Street NW, Washington DC 20006.

A–3. *The National Environmental Health Association.*

The National Environmental Health Association is a professional organization representing various sanitary and environmental control groups. It provides information and consultation on solid waste management, air and water pollution, and other environmental health matters. Military members of the association belong to the Uniform Services Association of Sanitarians. All requests for assistance should be directed to the military association at the national association headquarters, 1600 Pennsylvania Ave., Denver, Colorado 80293.

A–4. *The Federal Trade Commission.*

The Federal Trade Commission was established in 1914 and is the principal agency of the Government responsible for preventing deceptive acts and practices in commerce. The Commission strives to keep competition fair and free from deceptive advertisement of food, drugs, cosmetics, therapeutic devices, catalog sales, and credit card purchases. It strives to protect consumers against the circulation of inaccurate or obsolete credit reports. Consumer Protection Specialists are located at the national and regional offices to render assistance. Regional offices are located in major metropolitan areas and frequently conduct investigations of acts peculiar to local communities. Inquiries should be made to the regional offices.

Appendix B—Armed Forces Disciplinary Control Board Procedures Guide

B–1. *General.* This guide prescribes procedures for the establishment, operation, and coordination of Armed Forces Disciplinary Control Boards (AFDCBs). It is intended to insure uniformity of operation. AFDCB proceedings are not considered to be adversary in nature.

B–2. *Meetings.*

a. Regular meetings will be held once each quarter or as designated by the president. The sponsoring commander may specify whether the meetings, as scheduled, will be open or closed. If not specified, the decision is within the discretion of the president of the board. Normally, proceedings are closed, but

may be opened to the public when circumstances warrant.

b. Special meetings may be called by the president of the board. Except by unanimous consent of members present, final action will be taken only on the business for which the meeting was called.

B–3. *AFDCB composition.*

a. Voting members will be selected according to paragraph 2–3 of this regulation.

b. A majority of voting members constitutes a quorum for board proceedings.

B–4. *Attendance of observers or witnesses.*

a. Representatives of the agencies listed below may be invited to attend as observers or witnesses.

(1) American Social Health Association.
(2) United States Brewers Association.
(3) Federal Bureau of Investigation.
(4) United States Attorneys.
(5) State and local police.
(6) State and local departments of health.
(7) State and local VD control officers.
(8) State alcoholic beverage control authorities.
(9) State and local prosecutors.
(10) Consumer affairs personnel.
(11) State and local narcotics investigative agencies.
(12) Immigration and Naturalization Service.
(13) Members of Judiciary directly concerned with law enforcement.
(14) Drug Enforcement Administration.
(15) Bureau of Alcohol, Tobacco, and Firearms.
(16) US Customs Service.
(17) Chamber of Commerce.
(18) Better Business Bureau.
(19) State license beverage association.
(20) National Institute of Drug Abuse and National Institute on Alcohol Abuse and Alcoholism.
(21) Adult probation department/social services.
(22) Any other representation deemed appropriate by the sponsoring command, i.e., news media, union representatives, and so forth.

b. Witnesses and observers will be listed in the minutes of the meeting if invited by the board to participate in that capacity.

c. Board action may be recommended by a majority vote of the voting members present at a regular or special board meeting.

B–5. *Appropriate areas for board consideration.*

a. Boards will study and take appropriate action in connection with all conditions detrimental to the good discipline, health, morals, welfare, safety, and morale of Armed Forces personnel. This will include, but not be limited to, the following:

(1) Crime and misconduct.
(2) Narcotics, marihuana, dangerous drugs, and drug abuse paraphernalia.
(3) Liquor violations.
(4) Excessive number of unauthorized absences.
(5) Gambling (when in violation of State or local law).
(6) Military and civilian relationships that may be detrimental to service personnel.
(7) Unsanitary and other adverse conditions in establishments frequented by Armed Forces personnel.
(8) Off-installation/base safety problems.
(9) Unethical or illegal business practices.
(10) Prostitution and venereal disease.
(11) Discriminatory practices.
(12) Other health hazards.

b. The board will immediately forward to the local commander concerned the circumstances reported to the board involving discrimination based on race, color, sex, religion, age, or national origin.

B–6. *Off-limits procedures.*

a. Off-limits restrictions should be invoked only when there is substantive information indicating that an establishment or area frequented by Armed Forces personnel presents conditions which adversely affect the health, safety, welfare, morale, or morals of such personnel. It is essential that boards do not act arbitrarily; actions must not be of a punitive nature. Boards should work in close cooperation with local officials and proprietors of business establishments and seek to accomplish their mission through mutually cooperative efforts. Boards should encourage personal visits by local military and civilian enforcement or health officials to establishments considered below standard. AFDCBs should point out unhealthy conditions or undesirable practices to establishment owners or operators in order to produce the desired corrective action.

b. Prior to initiating routine off-limits action, the local commander will attempt to correct any situation which adversely affects the welfare of Armed Forces personnel. This will be done through contact with community leaders.

c. Unless emergency conditions exist which are extremely harmful to Armed Forces personnel, an establishment will not be recommended for off-limits action until the proprietor has been—

(1) Notified in writing of the adverse condition/circumstances.

(2) Given an opportunity to be heard and a reasonable time in which to correct deficiencies.

d. If the board decides to attempt to investigate or inspect an establishment, the president or a designee will prepare and submit a report of findings and recommendations at the next meeting. This will insure complete and documented information concerning doubtful adverse conditions.

e. When the board concludes that conditions adverse to Armed Forces personnel do exist, the owner or manager will be sent a letter of notification (annex A). This letter will advise him or her to raise standards and that, if such conditions or practices continue, off-limits proceedings will be initiated. In cases involving discrimination, the board should not rely solely on letters written by the Equal Opportunity Office and Military Affairs Committee or investigations of alleged racial discrimination. The AFDCB should send letters to the proprietor, informing him or her that off-limits action is being considered and inviting him or her to the next board meeting. Boards should send letters directly to the proprietors when any off-limits action is being considered. If a proprietor takes remedial action to correct undesirable conditions previously noted, the board should send a letter of appreciation (annex B). Any correspondence with the individuals responsible for adverse conditions leading to off-limits action will be by certified mail.

f. If the undesirable conditions are not corrected, an invitation (annex C) will be written to the proprietor. This letter will invite the proprietor to appear before the board to explain why the establishment should not be placed off-limits. The proprietor may designate, in writing, individual(s) to represent him or her at the board.

g. In cases where proprietors have been invited to appear before the board, the president of the board will perform the following actions:

(1) Prior to calling the proprietor—

(a) Review the findings and decision of the previous meeting.

(b) Call for inspection reports.

(c) Afford an opportunity to those present to ask questions and discuss the case.

(2) When the proprietor and/or his or her counsel is called before the board—

(a) Present the proprietor with a brief summary of the complaint concerning his or her establishment.

(b) Afford the proprietor an opportunity to present matters in defense of the allegation.

(c) Offer those present an opportunity to question the proprietor. After the questioning period, provide the proprietor a final opportunity to make an additional statement or to make commitments concerning his or her willingness to cooperate.

(3) After excusing the proprietor from the meeting, the president and board will discuss suggestions and recommendations for disposition of the case in closed session.

h. No member of a board shall reprimand or admonish in any degree a person appearing before a board. Board members do not have jurisdiction over such individuals. Off-limits actions are designed solely for the protection of Armed Forces personnel and are used as a last resort when all other means have failed.

i. The board should recommend that the offending establishment be placed off-limits only after the following:

(1) The letter of notification (annex A) has been sent.

(2) An opportunity to appear before the board has been extended.

(3) Further investigation indicates that improvements have not been made.

j. The minutes will indicate a board's action in disposing of each case. When a recommendation is made that an establishment be placed off-limits, the minutes will show the procedural steps followed in reaching the decision.

k. Recommendations of the board will be submitted to the sponsoring commander for consideration. The recommendations will then be forwarded to the other installation commanders who furnish board representation (annex D). If no objection to the recommendations is received within 10 days, the sponsoring commander will either approve or disapprove the recommendations. He will then forward this decision to the board president.

l. Upon approval of the board's recommendations, the president will dispatch a declaration that the off-limits restriction has been imposed (annex E).

m. No definite time limit should be specified when an off-limits restriction is invoked. The adequacy of the corrective action taken by the proprietor of the establishment must be the determining factor in removing an off-limits restriction.

n. Military commanders have no authority to post off-limits signs on private property. Appropriate civil officials may post private property when informed by military authorities that an establishment or area has been declared off-limits to Armed Forces personnel.

o. Emergency off-limits action: In emergencies, commanders may temporarily declare establishments or areas off-limits to Armed Forces personnel subject to their jurisdiction. They must then report the circumstances immediately to the commander sponsoring the board. Detailed justification for this emergency action will be provided to the board for its use.

B–7. *Removal of off-limits restrictions.*

a. Removal of an off-limits restriction requires board action. Proprietors of establishments declared off-limits should be advised that they may appeal to the appropriate board at any time. In their appeal, they should submit the reason why, in their opinion, the restriction should be removed. A letter of notification of continuance of off-limits restriction should be sent to the proprietor if the board does not favorably consider removal of an off-limits restriction (annex F). If, after exhausting all appeals at the board/local sponsoring commander level, the proprietor is not satisfied with those decisions, his or her case will be forwarded to the next higher commander of the sponsoring commander for review and resolution. Boards should make at least quarterly inspections of off-limits establishments. A statement that an inspection has been made should be reflected in their minutes.

b. When it has been determined that adequate corrective measures have been taken by the owner or manager of an establishment or area to meet the requirements for good discipline, health and welfare of Armed Forces personnel, the appropriate board will take the following actions:

(1) Discuss the matter at the next meeting and make an appropriate recommendation.

(2) Forward recommendation for removal of off-limits restriction to the sponsoring commander. If the recommendation is approved, dispatch a letter of removal of off-limits (annex G or H).

(3) Record what action was taken in the minutes of the board meeting.

B–8. *Duties of the president of the board.*

The president of the board will—

a. Schedule and preside at all meetings of the board and sign appropriate correspondence.

b. Prepare an agenda prior to each regular meeting and insure its distribution to each voting member at least 7 days prior to the meeting.

c. Be responsible for the preparation and distribution of the minutes of all meetings and for maintenance of appropriate records and files pertaining to AFDCB activities. (See para. 2–6e.)

d. Inform members of any special meeting and its purpose as far in advance as possible.

e. Prepare and distribute to major commands a copy of the minutes of each meeting.

f. Supervise the recorder in performance of all administrative duties as required.

B–9. *Minutes.*

a. Annex I is a guide for the preparation of the minutes of board meetings. Minutes will be prepared in accordance with administrative formats for minutes of meetings prescribed by the Service of the sponsoring commander. The written minutes of board meetings will be deemed the official record of board meetings. Verbatim transcripts of board meetings are not required. The reasons for approving or removing an off-limits restriction, to include a complete address of the establishment or area involved, should be indicated in the order of business. In addition, the board's action will be shown in order of sequence, such as dispatch of letter of notification, appearance before board, recommendation to local sponsoring commander, or action taken by local sponsoring commander. Change in the name of an establishment or areas in an off-limits status will also be included.

b. Distribution of the minutes of board meetings will be limited to the following:

(1) Each voting member, sponsoring command and other commands, and installations represented on or serviced by the board.

(2) Each civilian and military advisory member, if deemed appropriate.

(3) Civilian and Government agencies, within the State in which member installations are located, having an interest in the functions of the board, if appropriate.

c. The minutes of the board meeting, containing the board's recommendations, will be forwarded in writing to the sponsoring commander. The minutes will be accompanied by a request that the recommendations be approved for implementation. The sponsoring commander will, by written indorsement to the president of the board, approve or disapprove the minutes and recommendations.

d. Board minutes are subject to the release and disclosure provisions of DOD Directive 5400.7 and implementing Service regulations.

B–10. *Installation commander and board relationship.*

Military installation commanders within a board's areas of responsibility must be thoroughly acquainted with the mission and services provided by AFDCBs. Board members should keep their respective commanders informed of command responsibility pertaining to board functions and actions.

B–11. *Public affairs.*

a. Because of the sensitive nature of subject matter discussed, no public announcement will be initiated in connection with board meetings. However, any board proceeding which is open to the public will also be open to representatives of the news media. Representatives of the news media will be considered as observers and will not participate in the discussion of matter considered by the board. Members of the news media may be invited to participate in an advisory status in coordination with the Public Affairs Officer.

b. News media interviews and releases will be handled through the Public Affairs Offices in accordance with this regulation and AR 360–5.

Annex A—Letter of Notification

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir: As President of the Armed Forces Disciplinary Control Board, it is my duty to inform you of certain undesirable conditions reported at your establishment which adversely affect the health and welfare of personnel in the Armed Forces. It has come to the attention of the board that (*cite pertinent information*). You are advised that it will be necessary for this board to initiate action to determine whether your establishment should be placed off-limits to personnel of the Armed Forces if the above cited undesirable condition(s) is (are) not eliminated. (*Include if applicable*). Within (*cite period*), a representative of this board will visit your establishment in order to determine if steps have been taken to correct the conditions outlined above.

Sincerely,

———,

President, AFDCB.

(Note.—When sent by mail, send letter by *CERTIFIED MAIL, RETURN RECEIPT REQUESTED.*)

Annex B—Letter of Appreciation

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir: Reference is made to my letter dated ——— concerning certain undesirable conditions reported at your establishment which adversely affect the health and welfare of personnel in the Armed Forces.

The board appreciates your action in correcting the deficiencies previously noted. In view of this fact, the board contemplates no further action with respect to this matter at the present time.

The board hopes that you will continue to operate your establishment in the manner which will benefit the health and welfare of Service personnel. Your continued cooperation is solicited.

Sincerely,

———,

President, AFDCB.

Annex C—Letter of Invitation

(Letterhead)

(Appropriate AFDCB)

Proprietor

[FR Doc. 82–5202 Filed 2–25–82; 8:45 am]

BILLING CODE 3710–08–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellanous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 8 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1.

Some of the revisions are minor, editorial, or clarifying. Substantive changes, such as the handling of Express Mail insurance claims, or the rules governing Electronic Computer Originated Mail (ECOM) Service, have previously been published in the **Federal Register** both in the proposed rule and the final rule stages, or as interim rules.

EFFECTIVE DATE: January 21, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 111.1), has been amended by the publication of a transmittal letter for Issue 8, dated January 21, 1982. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual received these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for Issue 8 covers the minor changes not previously described in interim or final rules published in the **Federal Register.**

Summary of Changes

Note.—Issue 8 contains all DMM revisions published between November 5, 1981, and January 21, 1982.

1. Sections 119.11 and 119.13 are revised to update the lists of registered and pending trademarks and service marks (PB 21335, 1–21–82).

2. Section 128.44 and part 753 are revised to allow film cases weighing more than 5 pounds to be treated as machinable parcels under specified conditions (PB 21335, 1–21–82).

3. * * *

4. Section 137.15 is revised to implement new reporting procedures for originating franked mail (PB 21330, 12–17–81).

5. Sections 144.6 and 144.952 are revised to update procedures for postage meter verification and control. Section 144.742b is revised to update the title of Form 3609–PO. (PB 21335, 1–21–82).

6. Section 147.28 is revised to reflect the $500 limit on money orders and to streamline procedures associated with small adjustments on postage meters, and issuing money orders and Treasury Checks for amounts under $5 (PB 21329, 12–10–81).

7. * * *

8. Section 159.16 is added to state service criteria for processing mail which is undeliverable as addressed (PB 21328, 12–3–81).

9. * * *

10. Section 159.242d is revised to conform to provisions of 611.12 and 692 on forwarding items mailed at third-class rates, and part 692 is revised to specify that certain items are forwarded without charge if a local forwarding order is in effect.

11. Section 159.527 is revised to clarify the type of organization that may qualify to receive undeliverable publications (PB 21327, 11–26–81).

12. Section 164.73d is revised to specify conditions under which items bearing already canceled stamps may be accepted for subsequent cancellation (PB 211334, 1–14–82).

13. Section 164.92 is revised to clarify procedures for approval of cancellations at temporary postal stations recognizing events involving specific types of organizations (PB 21327, 11–26–81).

14. * * *

15. * * *

16. * * *

17. * * *

18. * * *

19. Sections 931.33, 932.34, and 933.4 are revised to allow the use of forms printed by the mailer instead of Form 3877, to specify the fee for return receipt when the original Form 3800 was not dated-stamped, and to clarify restricted delivery procedures for mail addressed *In care of* another. Section 933.48, which was inadvertently omitted from issue 1, is reinserted (PB 21332, 12–31–81).

20. Section 945.131 is revised to allow mailers to submit mailing list for correction by means other than by mail (PB 21335, 1–21–82).

21. Section 945.3 is revised to allow mailers more time to meet requirements regarding submission of address cards for sequencing and to revise procedures for returning address cards to the customer, billing, and payment (PB 21326, 11–19–81).

22. Minor editorial changes clarify language in §§ 367.421, 643.1, 643.3, and 721.1.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	FEDERAL REGISTER publication
* * * * *		
8	Jan. 21, 1982	47 FR

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218; 3403–3405, 3601, 3621; 42 U.S.C. 1973 cc–13, 1973 cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82–5149 Filed 2–25–82; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–7–FRL–2057–5]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking; correction.

SUMMARY: This document corrects a final rulemaking published on July 7, 1981 (46 FR 35089) by adding additional amendatory language and regulatory text. The purpose of the July 7 publication was to approve the state's actions to correct two conditions on approval of the Part D State Implementation Plan (SIP) for Kansas under the Clean Air Act and to remove the applicable conditions.

The present action is necessary to correct a deficiency in the amendatory section of the July 7, 1981, action.

EFFECTIVE DATE: This correction is effective February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter, Air and Waste Management Division, Environmental Protection Agency, Region VII, Kansas City, Missouri 64106, (816) 374–3791; FTS 758–3791.

Dated: February 3, 1982.

John J. Franke, Jr.,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

The following corrections are made to add amendatory language and regulatory text to FR Doc. 81–19842 appearing on page 35090 in the issue of July 7, 1981:

Section 52.870(c)(13) is added as follows:

§ 52.870 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(13) Additional information to correct two plan deficiencies was submitted by the Kansas Department of Health and Environment on May 12, 1981.

[FR Doc. 82–5147 Filed 2–25–82; 8:45 am]

BILLING CODE 6560–38–M

40 CFR 52

[A–3–FRL 2042–5]

Approval of Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 20, 1980, EPA published a **Federal Register** notice taking final action on Pennsylvania's 1979 SIP revision (45 FR 33607). In that notice EPA conditionally approved 5 items and noted two other items were unapprovable and approved the rest of the SIP. On April 13, 1981, July 13, 1981 and August 17, 1981, Pennsylvania submitted SIP revisions to correct a number of the conditionally approved items and both unapproved items. Today, EPA is approving these SIP revisions. EPA expects Pennsylvania to submit a SIP revision to correct the remaining conditions in the near future.

DATE: Effective April 27, 1982.

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

Environmental Protection Agency, Air Media and Energy Branch, 6th and 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

FOR FURTHER INFORMATION CONTACT: Mr. Ed. Shoener, Environmental Protection Agency, Region III, Air Media and Energy Branch, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, PA 19106; (215) 597–8179.

SUPPLEMENTARY INFORMATION: On May 20, 1980, EPA published a **Federal Register** notice taking final action on Pennsylvania's 1979 SIP revision (45 FR 33607). In the notice EPA conditionally approved five items, noted two other items were unapprovable and approved the rest of the SIP. In submissions of April 13, 1981, July 13, 1981 and August 17, 1981, the Pennsylvania Department of Environmental Resources (DER) corrected a number of the conditionally approved items and both unapprovable items by modifying 215 PA Code, Chapters 127 and 129 and submitting other necessary commitments and justifications. The corrections are as follows:

1. Justification of the exemption allowing the use of cutback asphalt as a tack coat—This exemption is allowed under Chapter 129.64. DER demonstrated that this exemption is insignificant, representing an increase of less than 2.2 percent in VOC emissions from asphalt paving state-wide and, therefore, this exemption does not need to be removed (conditionally approved item 1).

2. Limit the solvent content allowed in emulsified asphalt—Chapter 129.64 limits the solvent content of emulsified asphalts to below 12 percent and sets a maximum VOC percent limit for each grade of asphalt (conditionally approved item 2).

3. Offsets required for major new or modified carbon monoxide sources impacting

carbon monoxide nonattainment areas—Chapter 127.63 is modified to require carbon monoxide sources located in carbon monoxide nonattainment areas, or in areas which significantly impact carbon monoxide nonattainment areas, to comply with special permit conditions that satisfy the requirements of section 173 of the Clean Air Act. Because this change corrects the deficiency identified by EPA, permits may now be issued to sources affected by this regulation (unapproved item).

4. Lowest achievable emission rate and statewide compliance required for all new or modified VOC sources in Pennsylvania—Chapter 127.63 is modified to require major new or modified VOC sources in rural ozone nonattainment areas to install lowest achievable emission rate pollution control equipment and to demonstrate statewide compliance of all other sources owned or operated by the same owner or operator. Because this change corrects the deficiency identified by EPA, permits may now be issued to sources affected by this regulation (unapproved item).

5. Definition of Ownership—Chapter 127.65 is changed to incorporate the definition of ownership contained in Section 173(3) of the Clean Air Act as amended in 1977 (conditionally approved item 5).

6. Firm commitment to implement the Route 66 trolley extension—DER submitted a letter from Commissioner Brown of the Philadelphia Department of Public Property committing the Department to the Route 66 trolley extension project (conditionally approved item 3).

Pennsylvania submitted proof that public hearings were held on these SIP revisions in accordance with the public hearing and notice requirements of 40 CFR 51.4.

EPA previously approved a DER submission to correct conditionally approved Item 4 (relating to conformance of transportation planning to SIP requirements) on April 20, 1981 (41 FR 22583). Today, EPA is approving the submissions described above because they will correct all the other conditionally approved and unapproved items noted by EPA in the May 20, 1980 **Federal Register** notice except for the portion of Items 2 and 3 relating to commitments to the Newton Branch rail line electrification project and to the Allegheny County emulsified asphalt regulations. EPA anticipates receiving a revision to correct these items in the near future.

EPA did not publish a separate proposed approval of these SIP revisions because the conditions and actions requiring these revisions were discussed in detail in the **Federal Register** notice of May 20, 1980 (45 FR 33607).

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby 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 Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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.

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

(42 U.S.C. 7401–642)

Dated: February 19, 1982.

Ann M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 Part 52 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. In § 52.2020, (c)(41) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revision listed below was submitted on the date specified. * * *

(41) Revisions submitted by the Commonwealth of Pennsylvania on April 13, 1981, July 13, 1981 and August 17, 1981 to correct the conditionally approved and unapproved portions of Pennsylvania 1979 State Implementation Plan.

§ 52.2037 [Amended]

2. Section 52.2037 is amended by removing paragraph (a)(1) and redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(1) and (a)(2) and revising the new paragraphs (a)(1) and (a)(2) to read as follows:

§ 52.2037 Control strategy: Carbon monoxide and ozone (hydrocarbons).

(a) * * *

(1) Firm commitments to implement the Newton Branch electrification are submitted to EPA by December 30, 1980. If firm commitments are not submitted, the State must submit substitute measures with equivalent reductions by June 30, 1981.

(2) The limit of the solvent content in emulsified asphalt contained in Allegheny County's regulations is made consistent with EPA policy, and revised regulations are submitted to EPA.

3. Section 52.2055 is amended by revising paragraph (a) to read as follows:

§ 52.2055 Review of new sources and modifications.

(a) Special permit requirement regulations are approved.

* * * * *

[FR Doc. 82-5271 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6253]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain

management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Idaho: Kootenai	Spirit Lake, City of	160084	May 28, 1975, emergency; May 26, 1978, regular; Mar. 1, 1982, suspended.		Mar. 1, 1982.
Illinois:					
Cook and Kane	Elgin, City of	170087C	May 29, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 3, 1974, Oct. 31, 1975 and May 23, 1978.	Do.
Kane	Unincorporated areas	170896A	July 29, 1976, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 14, 1976	Do.
Louisiana: Vermilion Parish	Kaplan, City of	220226A	July 1, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 2, 1973	Do.
Michigan:					
Gratiot	Alma, city of	260083B	Dec. 26, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 10, 1974 and June 25, 1976.	Do.
Jackson	Concord, Village of	260423A	June 29, 1976, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	July 11, 1975	Do.
Wayne	Livonia, City of	260233B	Feb. 16, 1973, emergency; Nov. 4, 1981, regular; Mar. 1, 1982, suspended.	Nov. 4, 1981	Do.
Ingam	Locke, Township of	260671C	Apr. 14, 1976, emergency; Aug. 10, 1979, regular; Mar. 1, 1982, suspended.	Feb. 17, 1978 and Aug. 10, 1979.	Do.
Shiawassee	Owosso, City of	260596A	May 23, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Sept. 26, 1975	Do.
New Jersey:					
Burlington	Florence, Township of	340098B	Sept. 5, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Mar. 5, 1976.	Do.
Camden	Haddon, Township of	340134B	Apr. 12, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 22, 1974 and June 4, 1976.	Do.
Monmouth	Holmdel, Township of	340300C	Apr. 14, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Feb. 1, 1974, Oct. 17, 1975 and Apr. 16, 1976.	Do.
Atlantic	Mullica, Township of	340517C	Apr. 22, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 1, 1974, July 30, 1976 and May 5, 1978.	Do.
New York: Erie	Williamsville, Village of	360263B	July 12, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 31, 1974 and Aug. 6, 1976.	Do.
North Carolina: Henderson	Unincorporated areas	370125B	Apr 28, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Jan. 10, 1975 and July 29, 1977.	Do.
Oregon:					
Yamhill	Dundee, City of	410253B	Apr. 23, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Dec. 17, 1976.	Do.
Do	Newberg, City of	410256B	Aug. 5, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 14, 1974 and Nov. 28, 1975.	Do.
Linn	Sweet Home, City of	410146B	Apr. 17, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Jan. 23, 1974 and Jan. 16, 1976.	Do.
Washington	Tigard, City of	410276B	Feb. 5, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Feb. 14, 1978	Do.
Yamhill	Yamhill, City of	410259C	June 30, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 30, 1973, Apr. 16, 1976 and Nov. 29, 1977.	Do.
Pennsylvania:					
Fayette	Luzerne, Township of	421631A	Feb. 10, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Dec. 27, 1974	Do.
Montgomery	Skippack, Township of	421149B	Apr. 9, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	July 26, 1974 and Sept. 17, 1976.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Rhode Island: Washington	Exeter, Town of	440032A	Feb. 4, 1976, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Mar. 14, 1975	Do.
Tennessee:					
Dyer	Unincorporated areas	470284B	Feb. 18, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Dec. 2, 1977	Do.
Do	Dyersburg, City of	470047B	May 2, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 14, 1974 and Apr. 2, 1976.	Do.
Utah:					
Davis	Centerville, City of	490040B	July 24, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Mar. 19, 1976.	Do.
Do	Unincorporated areas	490038B	Apr. 22, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Feb. 7, 1978	Do.
Do	Kaysville, City of	490046B	Apr. 18, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Sept. 3, 1976.	Do.
Texas:					
Fort Bend and Harris	Stafford, City of	480233A	Oct. 16, 1979, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974	Do.
Williamson	Taylor, City of	480670B	Nov. 7, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Mar. 29, 1974 and Jan. 30, 1976.	Do.
Vermont: Chittenden	Colchester, Town of	500033B	Aug. 23, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Aug 23, 1974 and Oct. 8, 1976.	Do.
Wisconsin: Milwaukee and Washington.	Milwaukee, City of	550278B	Jan. 30, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Oct. 15, 1976.	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804 Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-5154 Filed 2-25-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-564; RM-3921]

FM Broadcast Station in Kremmling, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 292A to Kremmling, Colorado, in response to a petition filed by Middle Park Communications Corporation. The assignment could provide a first local broadcast service to Kremmling.

DATE: Effective March 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: January 11, 1982.

Released: January 19, 1982.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Kremmling, Colorado), BC Docket No. 81-564, RM-3921.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 46 FR 43213, published August 27, 1981, filed by Middle Park Communications Corporation ("petitioner"), proposing the assignment of Channel 292A to Kremmling, Colorado, as its first FM Assignment. Supporting comments were filed by the petitioner. No oppositions to the proposal were received.

2. Kremmling (population 1,296) [1], in Grand County (population 7,475), is located approximately 120 kilometers (75 miles) northwest of Denver, Colorado. It has no local broadcast service.

3. As stated in the *Notice*, Kremmling has a mayor-council form of government. Its economy is based on lumbering, mining, ranching, and retail sales outlets. The *Notice* also stated that Kremmling is located in a valley, isolated between the Continental Divide and the Rocky Mountains, which obstructs the reception of FM signals while its terrain limits AM service. Petitioner has stated its intent to apply for the channel, if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 292A to Kremmling. The petitioner has shown that there is an apparent need for an assignment and a willingness to operate a first FM service in that community.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered that effective March 5, 1982, § 73.202(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Kremmling, Colo.	292A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5142 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-565; RM-3859]

FM Broadcast Station in Cape Coral, Fla.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 292A to Cape Coral, Florida, in response to a petition filed by Sunshine Broadcasting, Inc. The assignment will provide Cape Coral with a second local FM service.

DATE: Effective March 5, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: January 11, 1982.

Released: January 20, 1982.

By the Acting Chief, Policy and Rules Division:

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cape Coral, Florida), BC Docket No. 81-565, RM-3859.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 46 FR 43203, published August 27, 1981, proposing the assignment of Channel 292A to Cape Coral, Florida, as that community's second FM assignment, in response to a petition filed by Sunshine Broadcasting, Inc. ("petitioner"). Supporting and reply comments were filed by petitioner in which it reaffirmed its intent to apply for the channel, if assigned. Comments were also filed by Charles P. Pascal ("Pascal") and Dean J. Matlin ("Matlin"), in which each expressed an interest in the assignment.[1]

2. Cape Coral (population 32,103),[2] in Lee County (population 205,266), is located approximately 13 kilometers (8 miles) southwest of Ft. Myers, Florida. It is presently served by Class A FM Station WRCC (Channel 280A).

3. In support of its proposal, petitioner submitted information with respect to Cape Coral which is persuasive as to its need for a second FM channel assignment.

4. In the *Notice*, we indicated that as a result of the proposed assignment, preclusion would occur only on the co-channel in six Florida communities, which contain a population in excess of 1,000 persons. Of these, three have existing assignments.[3]

5. In its comments, petitioner states that its proposed transmitter site is designed to maximize coverage of Cape Coral within the confines of the Commission's minimum distance separation requirements and the Federal Aviation Administration's environmental protection considerations. Additionally, it states that Cape Coral is an extremely large city, extending 17 miles from northwest to southeast, covering an area of 103 square miles. Therefore, according to petitioner, it would be difficult to place a 70 dBu signal over the entire community of Cape Coral. It adds that given these constraints, it has counted the population in individual census tracts which would be served by a 70 dBu signal from its proposed transmitter site and has determined that, as proposed, 30,342 persons (96.31% of the total population) would receive such service. Further, it adds that nearly all areas of commercial and residential concentration, community facilities, and areas projected for growth to 1985, would be included in its proposed coverage area.

6. Petitioner also notes that no Class C channel is available for assignment to Cape Coral, and the only other Class A channel which could be assigned is Channel 285A. However, as discussed at paragraph 9, *infra*, that channel has been proposed for assignment in a separate proceeding to either Fort Myers Villas, Florida (RM-3953) or Sanibel, Florida (RM-3992).

7. In its reply comments, petitioner reaffirms its interest in the proposal and supplements its initial showing concerning the question of coverage of Cape Coral with a 70 dBu signal. To this extent, it attaches a letter from the Planning Director of the City of Cape Coral which notes that its boundaries were not established surrounding a population cluster. Rather, it is stated that a land developer purchased a large tract of land for subdivision and simply designated a 103 square mile area as the community of Cape Coral. In this respect, petitioner cites *Manchester Broadcasting Co.*, 24 FCC 199, 211 (1958) and *Andy Valley Broadcasting System, Inc.*, 12 FCC 2d 3, 4 (1968), wherein the Commission noted that actual population centers rather than legal town boundaries would be utilized in evaluating compliance with the principal city coverage requirements. Petitioner states that, applying this standard to its proposal, substantial compliance with § 73.315(a) of the Commission's rules can be achieved.

8. Since the transmitter will be located within the community of Cape Coral, it is not believed that petitioner is attempting to circumvent the principal city coverage requirements. Therefore, under the unique circumstances recited herein, provision of a 70 dBu signal to only 96% of the community will not bar a grant of the proposal. However, the extent to which coverage can be maximized is better evaluated at the application stage.

9. Petitions are presently pending to assign Channel 285A to Fort Myers Villas, Florida (RM-3953), or to Sanibel, Florida (RM-3992). The proposals are mutually exclusive since the two communities are approximately twelve miles apart. Since the distance between Cape Coral and Fort Myers Villas is approximately 7.2 miles, and between Cape Coral and Sanibel, 8.0 miles, the assignment of Channel 292A to Cape Coral would make the channel available to the community that does not obtain Channel 285A pursuant to the provisions of § 73.203(b) of the Commission's rules, the "10-mile" rule.

10. In view of the above, we believe that the public interest would be served by the assignment of Channel 292A to Cape Coral, Florida, as that community's second FM assignment. The assignment can be made consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

11. In view of the foregoing, and pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective March 5, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Cape Coral, Fla	280A, 292A

12. It is further ordered, That this proceeding is terminated.

[1] In its reply comments, petitioner advises that Matlin has now withdrawn his previous expression of interest in the channel.

[2] Population figures are derived from the 1980 U.S. Census, Advance Reports.

[3] The six communities are: Fort Myers Beach, Naples, Marco, Naples Park, North Naples and East Naples. The latter three have no FM assignments. We also note that we have previously refused to recognize North Naples as a community. See *Naples, North Naples and Immokalee, Florida* (Docket 20935), 41 R.R. 2d 1549 (1977). We make no judgment at this time as to the community status of the other two places, Naples Park or East Naples.

13. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5141 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-374; RM-3741]

FM Broadcast Station in Emporia, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 296A to Emporia, Kansas, in response to a petition filed by G. and S. Enterprises. The proposed station would provide a second local FM broadcast service to Emporia.

EFFECTIVE DATE: Effective January 11, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: November 5, 1981.

Released: November 10, 1981.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Emporia, Kansas), BC Docket No. 81-374, RM-3741.

1. The Commission has under consideration a *Notice of Proposed Ruel Making,* 46 FR 35130, published July 7, 1981, proposing the assignment of Channel 269A to Emporia, Kansas, as that community's second FM assignment. Supporting comments were filed by G. and S. Enterprises ("petitioner"). Comments in opposition to the proposal were filed by Manhattan Broadcasting Company, Inc., licensee of FM Station KMKF (Channel 269A), Manhattan, Kansas.

2. Emporia (population 25,287)[1], seat of Lyon County (population 35,108), is located approximately 80 kilometers (50 miles) southwest of Topeka, Kansas. It is served locally by fulltime AM Station KVOE and FM Station KLRF (Channel 285A).

3. The comments of Manhattan Broadcasting essentially serve to remind the Commission of the need to impose a site restriction on the assignment of Channel 269A to Emporia. The *Notice* stated a site restriction of 4.1 miles southeast for the proposed assignment.

4. In comments to the proposal, the petitioner incorporated by reference the information contained in the *Notice,* demonstrating the need for a second FM assignment to Emporia. Petitioner stated its intent to apply for the channel, if assigned.

5. As stated in the *Notice,* the assignment of Channel 269A to Emporia will cause preclusion on the co-channel within 65 miles. Two communities within the precluded area (Madison and Burlington, Kansas) with populations greater than 1,000 are without local service. Channel 252A is available for assignment to Madison, but there is no channel available at Burlington.

6. The Commission believes that it would be in the public interest to assign Channel 269A to Emporia. The petitioner has shown that there is a need for an additional assignment. The transmitter site must be located 6.6 kilometers (4.1 miles) southeast of Emporia to avoid short-spacing to Station KMKF (Channel 269A), Manhattan, Kansas.

7. In view of the foregoing and pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That, effective January 11, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to Emporia, Kansas, as follows:

City	Channel No.
Emporia, Kans.	269A, 285A

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5139 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

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47 CFR Part 73

[BC Docket No. 81-400; RM-3787]

FM Broadcast Station in Petal, Mississippi; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 292A to Petal, Mississippi, in response to a petition filed by Jerrine Wilson. The assignment could provide Petal with a first local aural broadcast service.

EFFECTIVE DATE: Effective January 11, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: November 5, 1981.

Released: November 12, 1981.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Petal, Mississippi); BC Docket No. 81-400, RM-3787.

1. Before the Commission for consideration is a *Notice of Proposed Rule Making,* 46 FR 34606, published July 2, 1981, proposing the assignment of FM Channel 292A to Petal, Mississippi, as that community's first local aural broadcast service, in response to a petition filed by Jerrine Wilson ("petitioner"). Supporting comments were filed by the petitioner reaffirming her intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Petal (population 8,476),[1] in Forest County (population 66,018), is located approximately 144 kilometers (90 miles) southeast of Jackson, Mississippi. It presently has no local aural broadcast service. Channel 292A could be assigned to Petal, provided the transmitter site is located 7.2 kilometers (4.5 miles) east-northeast of the community to avoid short-spacing to Station WJOJ (Channel 292A), in Picayune, Mississippi.

3. In her comments, petitioner incorporated by reference the information contained in the *Notice,* which demonstrated the need for a first FM assignment to Petal, Mississippi.

[1] Population figures are extracted from the 1980 U.S. Census.

4. We believe that the public interest would be served by the assignment of Channel 292A to Petal, Mississippi. An interest has been shown for its use, and such assignment would provide the community with an FM station which could render a first local aural broadcast service.

5. In view of the foreging and pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective January 11, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended for the community listed below, as follows:

City	Channel No.
Petal, Miss	292A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5138 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-628; RM-3888]

FM Broadcast Station in Mountain View, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 244A to Mountain View, Missouri, in response to a petition filed by R. C. Trieman. The assignment could provide Mountain View with a first local aural broadcast service.

EFFECTIVE DATE: Effective March 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: January 28, 1982.

Released: February 4, 1982.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mountain View, Missouri); BC Docket No. 81-628, RM-3888.

1. Before the Commission for consideration is a *Notice of Proposed Rule Making,* 46 FR 46355, published September 18, 1981, proposing the assignment of FM Channel 244A to Mountain View, Missouri, as that community's first local aural broadcast service, in response to a petition filed by R. C. Trieman ("petitioner"). Supporting comments were filed by petitioner reaffirming his intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Mountain View (population 1,664),[1] in Howell County (population 28,807), is located approximately 144 kilometers (90 miles) east of Springfield, Missouri. It presently has no local aural broadcast service. Channel 244A could be assigned to Mountain View consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

3. In supporting comments, petitioner incorporated by reference the information contained in the *Notice,* which demonstrated the need for a first FM assignment to Mountain View, Missouri.

4. We believe that the public interest would be served by the assignment of Channel 244A to Mountain View, Missouri. An interest has been shown for its use and such an assignment could provide the community with a first local aural broadcast service.

5. In view of the foregoing and pursuant to the authority contained in 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective March 19, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to the following community:

City	Channel No.
Mountain View, Missouri	244A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

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

[1] Population figures are derived from the 1980 U.S. Census, Advance Reports.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5137 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-759; RM-3590]

TV Broadcast Station in Kerrville, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channel 35 to Kerrville, Texas, in response to a petition filed by Hubbard Broadcasting, Inc. The assignment could provide Kerrville with a first local television service.

EFFECTIVE DATE: January 11, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order Proceeding Terminated

Adopted: November 5, 1981.

Released: November 10, 1981.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Kerrville, Texas), BC Docket No. 80-759; RM-3590.

1. Before the Commission is a Notice of Proposed Rule Making 45 FR 84835, publish December 23, 1980, proposing the assignment of UHF television Channel 35 to Kerrville, Texas, as that community's first television assignment. The Notice was adopted in response to a petition filed by Hubbard Broadcasting, Inc. ("petitioner"). Petitioner filed comments in which it reiterated its interest in the proposed assignment. In addition, a letter was received from an unnamed party represented by counsel indicating an interest in applying for the channel.

2. Kerrville (population 15,276),[1] seat of Kerr County (population 28,780), is located in south central Texas, approximately 90 kilometers (55 miles) northwest of San Antonio. Kerrville currently has no local television service.

3. As indicated in the Notice, petitioner herein is one of nine

[1] Population figures are extracted from the 1980 U.S. Census.

applicants for a new television station on Channel 29 at San Antonio, Texas. Its Kerrville proposal to construct and operate a station on Channel 35 as a satellite of its proposed San Antonio station is contingent on the final resolution of the latter proceeding in its favor. For this reason, we indicated in the Notice that it may be necessary to postpone this proceeding pending a decision in the San Antonio case in order to assure us that there would be an applicant for the proposed assignment.

4. In its comments, petitioner urged that we not delay granting the assignment since it was justified by the demonstration of need and by virtue of the fact that an application would be possible from the successful San Antonio applicant. However, in view of the expression of interest in the previously referred to letter, we now appear to have the necessary statement of intent to apply.

5. In view of the foregoing, we believe that the public interest would be served by the assignment of UHF television Channel 35 to Kerrville, Texas, as it will provide for a first local television service to that community. The assignment could be made in compliance with the minimum distance separation requirements of § 73.610 of the Rules. Mexican concurrence in the assignment has been obtained.

6. Accordingly, pursuant to authority contained in 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective January 11, 1982, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended as follows:

City	Channel No.
Kerrville, Texas	35+

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632—7792.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5140 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte MC 100 (Sub-3]

Standards for Evidencing Lawlessness of Interstate Operations of Motor Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Under the provisions of 49 U.S.C. 11506, the Commission is amending its regulations pertaining to standards for evidencing the lawfulness of interstate operations of motor carriers. The amendments are in response to a petition which informed the Commission that its rules in Part 1023 should be made to reflect certain practices.

EFFECTIVE DATES: Amendments to 49 CFR 1023.22 and 1023.32 will become effective March 29, 1982. The amendment to 49 CFR 1023.33 will be effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Mary Kelly (202) 275-7292
Terrance Fleming (202) 275-7901.

SUPPLEMENTARY INFORMATION:

Background

Purpose: The purpose of this document is to notify the public that the Interstate Commerce Commission is amending its regulations pertaining to standards for evidencing the lawfulness of interstate operations of motor carriers (49 CFR Part 1023).

By petition filed November 30, 1981, the National Association of Regulatory Utility Commissioners (NARUC), informed the Commission that it had determined, under the provisions of 49 U.S.C. 11506 of the Revised Interstate Commerce Act, that the standards promulgated by the Commission in Part 1023 of Title 49 of the Code of Federal Regulations should be amended to reflect the following changes: (1) To move the annual period for motor carrier registration and identification of vehicles and driveaway operations from November 1—January 31 to October 1—December 31, so as to afford the State commissions an additional month (January) to complete the registration and identification process; (2) to prescribe a maximum fee of ten dollars for State commission issuance of an identification stamp or identification number for each vehicle operated under the authority of the motor carrier; and (3) to eliminate any duplication in the filing with a State commission of the designation of a local agent for service of process upon a motor carrier.

Pursuant to Pub. L. 89-170, 79 Stat. 648, approved September 6, 1965, which amended Subsection (b) of section 202 of the Interstate Commerce Act (49 U.S.C. 11506), the National Association of Regulatory Utility Commissioners (NARUC) was authorized to determine and officially certify standards to the Interstate Commerce Commission for evidencing the lawfulness of interstate operations of motor carriers. The Interstate Commerce Commission was required to promulgate such standards into law and these were codified at 49 CFR 1023.

Under this same statutory provision, NARUC is likewise authorized to amend these standards. Pursuant to this authority, NARUC on November 18, 1981, adopted a resolution containing the amendments noted above.

NARUC, having determined that these amendments are required, officially certified them to this Commission. We find the amendments not to be in conflict with regulations of the Commission. This notice regarding amendments to Part 1023 of Title 49 of the Code of Federal Regulations is issued pursuant to 49 U.S.C. 11506. The amendments to 49 CFR 1023.22 and 1023.32 will become effective March 29, 1982. The amendment to 49 CFR 1023.33 will become effective on October 1, 1982.

Decided: February 17, 1982.

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

Agatha L. Mergenovich

Secretary.

PART 1023—STANDARDS FOR REGISTRATION OF CERTIFICATES AND PERMITS WITH STATES

Accordingly, 49 U.S.C. 1023 is amended in the following manner:

§ 1023.22 [Amended]

(1) Section 1023.22 is amended as follows:

Strike the period at the end of 49 CFR 1023.22, and insert the following in lieu of the period: "; *provided, however,* that such designation on Form A need not be made if the designation has been filed with the State commission pursuant to 49 U.S.C. 10330(b)."

§ 1023.32 [Amended]

(2) Section 1023.32 is amended as follows:

Strike "January" from 49 CFR 1023.32 (a) and (e) and insert in lieu thereof "December"; strike "November" from 49

CFR 1023.32 (a) and (e) and insert in lieu thereof "October"; and strike "fifteen" from 49 CFR 1023.32(f) and insert in lieu thereof "sixteen."

§ 1023.33 [Amended]

(3) Section 1023.33 is amended as follows:

Strike "five" whenever it appears in 49 CFR 1023.33, and insert in lieu thereof "ten"; and strike the last two sentences of 49 CFR 1023.33, beginning with "The prescription" and ending with "this section."

[FR Doc. 82-5152 Filed 2-25-82; 8:45 am]
BILLING CODE 7135-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 657

Atlantic Butterfish Foreign Fishery; Determination

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

ACTION: Notice of determination.

SUMMARY: This notice announces NOAA's determination that 659 metric tons of Atlantic butterfish, in addition to the annual fishing level certified by the Mid-Atlantic Fishery Management Council, is available for allocation to foreign fishing vessels during the 1981–82 fishing year.

FOR FURTHER INFORMATION CONTACT: Don J. Leddy, (202) 634–7449.

SUPPLEMENTARY INFORMATION: Under section 201(d) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Mid-Atlantic Fishery Management Council certified an annual fishing level (AFL) of 759 metric tons (mt) for Atlantic butterfish. NOAA accepted the AFL and made the 759 mt of butterfish available for allocation to foreign fishing vessels.

The portion of the optimum yield (OY) (beyond the AFL already made available) that will not be harvested by U.S. vessels must be allocated to foreign vessels, unless NOAA makes the findings specified in section 201(d)(4) of the Magnuson Act. The OY in the butterfish fishery is 11,000 mt; the estimate of domestic annual harvest in the fishery management plan is 7,000 mt. Thus, the portion of OY that could be made available for foreign fishing during this fishing year (April 1, 1981–March 31, 1982) is 3,241 mt (11,000 mt—7,000 mt—759 mt). NOAA announced an intent to determine whether any portion of the OY for Atlantic butterfish, in addition to the AFL, would be made available for allocation to foreign fishing vessels during the 1981–82 fishing year, and invited the submission of information concerning this matter (46 FR 61911).

NOAA has considered the factual information provided by the commenters relevant to the following questions:

1. Would allocation of any of the 3,241 mt during the 1981–82 fishing year be detrimental to the development of the U.S. fishing industry?

2. Would part of the 3,241 mt be available for harvest in the 1982–83 fishing season?

3. Would deferral of any part of the 3,241 mt constrain the foreign harvest of 1981–82 allocations of species for which butterfish is an incidential catch?

U.S. commenters stated that: (1) The U.S. industry has unfilled orders for export of butterfish; (2) the exvessel price is sufficient to induce U.S. fishermen to fish for butterfish; and (3) U.S. processors have sufficient plant capacity to process enough butterfish to fill the orders. Further, U.S. commenters stated that U.S. fishermen could achieve their annual quota of 7,000 mt of butterfish but that an increase in the foreign allocation would result in a decrease of foreign purchases of U.S.-caught butterfish. However, foreign commenters disagreed with the latter two statements. NOAA determined that release of the entire, 3,241 mt of butterfish during the 1981–82 fishing year would be detrimental to the U.S. fishing industry.

U.S. commenters stated that all of the 3,241 mt of butterfish would be available for harvest during the next fishing year. Foreign commenters stated that 45 to 70 percent of the butterfish would suffer natural mortality and thus be wasted. NOAA determined that 64 percent of the yield of butterfish deferred until the next fishing year would be available for harvest, considering anticipated growth and natural mortality. Thus, any butterfish deferred will substantially be available for harvest in the next fishing year.

Foreign commenters stated that: (1) butterfish is abundant; (2) incidental catch allocation of butterfish to foreign vessels is inadequate to allow the harvest of the *Loligo* (squid) allocation; and (3) *Logilgo* allocated to foreign nations will likely be uncaught if the incidental catch allocation is not increased. Recognizing that butterfish is the chief incidental catch species in the *Loligo* fishery and that a reasonable incidental catch allocation is necessary for the foreign *Loligo* fishery to continue, NOAA has determined to make an additional 659 mt available.

The foreign *Loligo* catch during the present fishing year is expected to be up to 21,378 mt. The average incidental catch of butterfish in the directed foreign fishery for *Loligo* is six percent of the *Loligo* catch (as determined by the Mid-Atlantic Fishery Management Council, October 1981). The amount of 659 mt, in addition to the 759 mt already allocated to foreign vessels, will provide for a minimum butterfish incidental catch allocation of six percent of the expected foreign-directed *Loligo* catch, as well as a minimum incidental butterfish catch in directed foreign fisheries for other species.

The Assistant Administrator for Fisheries finds that releasing an additional 659 mt of butterfish for foreign fishing vessels in the 1981–82 fishing year will result in minimum detriment to the development of the U.S. fishing industry; however, withholding this amount would result in a much greater detriment to foreign fishing vessels authorized to fish for *Loligo* in the fishery conservation zone. Therefore, additional butterfish in the amount of 659 mt is made immediately available for foreign fishing vessels in the 1981–82 fishing year.

Further, the Assistant Administrator for Fisheries has determined not to reallocate any butterfish from the 1981–82 domestic quota (7,000 mt) to foreign vessels. Such a reallocation could have occurred because the domestic fishery did not attain at least 40 percent of its annual quota by October 31, 1981 (see § 657.22 of the butterfish regulations). However, U.S. commenters have stated that the domestic quota will be attained and the reallocation of any portion of that quota would be detrimental to the development of the U.S. fishing industry.

(16 U.S.C. 1801 *et seq.*)

Dated: February 22, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-5340 Filed 2-25-82; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 39
Friday, February 26, 1982

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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1260 and 1261

Freedom of Information Act and Privacy Act Fees and Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Notice of proposed amendment of rules.

SUMMARY: The Office of the Special Counsel proposes to amend its regulations to set forth realistic charges for photocopy and search fees incurred in granting Freedom of Information Act and Privacy Act requests and limiting the time period within which an initial denial may be appealed.

DATE: Comments must be received by March 22, 1982.

ADDRESS: Comments should be sent to the Office of the Special Counsel, Room 818, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Ralph B. Eddy, Office of the Special Counsel (202–653–7146).

SUPPLEMENTARY INFORMATION: Under the Freedom of Information Act and the Privacy Act the Office of the Special Counsel may establish fees for photocopying documents to be released. 5 U.S.C. 552(a)(4)(A), 552a(f)(5). Additionally, under the Freedom of Information Act, fees may be charged for the time expended searching for documents. 5 U.S.C. 552(a)(4)(A). The fees previously charged have not kept pace with actual cost, do not account for partial hours of search time, and do not differentiate between clerical and professional employees' search time. Further, there was no time limitation within which an appeal from an initial denial must be filed.

Pursuant to 5 U.S.C. 1206(k), it is proposed that Parts 1260 and 1261 of Subchapter B of Chapter II of Title 5, Code of Federal Regulations, be amended as follows:

PART 1260—PUBLIC INFORMATION

1. Paragraphs (a) and (c) of § 1260.4 of Part 1260, relating to service charge for information, are revised to read as follows:

§ 1260.4 Service charge for information.

(a) Requests for records of the Office of the Special Counsel are subject to the following fees for search and duplication:

Photocopies, per page, $0.25. Manual record search: $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

Where copies of records have already been available to an individual in the course of agency proceedings or from any other source, the cost of photocopies to that individual or his representative shall be 50 cents per page. Fees for search and duplication of automated records shall be provided upon request.

* * * * *

(c) Records will not be released until the fees have been received.

2. Section 1260.5 of Part 1260, relating to appeals under the Freedom of Information Act, is revised to read as follows:

§ 1260.5 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel may be appealed to the Special Counsel or his designee. The requester shall submit his appeal in writing within 30 days of the denial. The appeals shall be addressed to the Special Counsel at 1120 Vermont Avenue, N.W., Washington, D.C. 20419. Except in unusual circumstances, the Special Counsel or his designee shall make a determination on the appeal within 20 days (excluding Saturdays, Sundays and legal holidays) after it is received. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

PART 1261—PRIVACY

3. Section 1261.5 of Part 1261 relating to appeals under the Privacy Act is amended by inserting the following as a new second sentence thereof:

§ 1261.5 Appeals.

* * * The requester shall submit his appeal in writing within 30 days of the denial.* * *

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small government jurisdictions.

Alex Kozinski,
Special Counsel.

[FR Doc. 82–4902 Filed 2–25–82; 8:45 am]
BILLING CODE 6325–20–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1068

[Docket No. AO–178–A37]

Milk in the Upper Midwest Marketing Area; Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would change some of the pooling provisions for reserve supply plants in the Upper Midwest milk order. Also, it would revise a price zone within the marketing area, modify the handler definition with respect to cooperative associations and revise the provisions concerning payments to individual producers. The decision is based on industry proposals considered at a public hearing held April 14–15, 1981. The changes are necessary to reflect current marketing conditions and to assure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202–382–9374.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued March 9, 1981, published March 13, 1981 (46 FR 16689).

Extension of Time: Issued May 15, 1981, published May 20, 1981 (46 FR 27501).

Recommended decision: Issued October 27, 1981, published November 2, 1981 (46 FR 54366).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Upper Midwest marketing area. The hearing was held, 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 (7 CFR Part 900), at Minneapolis, Minnesota, on April 14–15, 1981, pursuant to notice thereof issued March 9, 1981 (46 FR 16689).

Upon the basis of the evidence introduced at the hearing, and the record thereof, the Deputy Administrator, Marketing Program Operations, on October 27, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Also, the presiding Administrative Law Judge, in his opening comments, called the particular attention of participants at the hearing to the portion of the hearing notice that referred to the Regulatory Flexibility Act. Most parties subject to a milk order are considered to be a small business. No participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses as a group.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. In Issue No. 1: (a) Three paragraphs have been added after the 18th paragraph of the findings titled "a. Pooling standards in event of a 'call'."

(b) Three paragraphs have been added after the 9th paragraph of the findings titled "b. Loss of pooling status."

2. In Issue No. 2, three paragraphs have been added at the end of the issue.

3. In Issue No. 4, two paragraphs have been added after the 8th paragraph.

The material issues on the record of the hearing relate to:

1. Pool reserve supply plant provisions.
2. Handler definition.
3. Pricing zones.
4. Date of partial payment.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Issue No. 1. Pool Reserve Supply Plant Provisions

a. *Pooling standards in event of a "call."* The order should be revised to consider deliveries of milk to pool distributing plants in the call area by a cooperative association in its capacity as a handler pursuant to § 1068.9(c) as qualifying shipments from the cooperative's reserve supply plant. Proposals to permit two or more cooperative associations or proprietary handlers to form a "unit" to qualify their reserve supply plants should be denied.

The order provides that whenever the market administrator finds that milk supplies are needed for Class I use at pool distributing plants located within an area that he designates as the "call area," he may announce a minimum level of qualifying shipments from pool reserve supply plants within that area. This is known as a "call." Qualifying shipments to pool distributing plants within the call area may come from any plant or producer milk supplies of the handler operating a reserve supply plant. However, shipments from sources other than the plant(s) subject to the call must be in addition to any shipments (including shipments directly from producers' farms) already being made by the handler. Also, such shipments may not result from shifting milk supplies from a pool distributing plant outside the call area to one within the call area.

Also, the order provides in § 1068.9(c) that a cooperative association shall be the handler on bulk tank milk that it picks up at producers' farms for delivery to the pool plant of another handler, unless they both agree that the plant operator shall be the handler on such milk. A cooperative association that is delivering milk to a pool distributing plant as a 9(c) handler may have those deliveries considered as qualifying shipments from its reserve supply plant in the event of a call if such 9(c) deliveries represent milk that had not previously been part of the cooperative's 9(c) milk deliveries to distributing plants. With respect to a proprietary handler who operates a reserve supply plant, producer milk diverted by such handler from his reserve supply plant to pool distributing plants is considered as qualifying shipments from the handler's reserve supply plant.

Land O' Lakes, Inc. (LOL), proposed that two or more cooperative associations be allowed to form a unit to qualify their reserve supply plants and that qualifying shipments to pool distributing plants within the call area, for the purpose of pooling a handler's or unit's reserve supply plant(s), may originate from any plant or producer milk supplies of the handler or unit. Proponent's witness stated that the present provisions do not permit cooperative associations to service the fluid market in the most efficient manner possible and that they discriminate against cooperative associations with respect to 9(c) deliveries to pool distributing plants. LOL's proposals, the witness said, would reduce the cost of servicing the fluid market and would assure that all handlers share these costs on a more equitable basis.

Another proposal for consideration was submitted by Kraft, Inc. It would allow two or more handlers (either cooperative associations or proprietary handlers) to form a unit to qualify their reserve supply plants. Also, the proposal would allow qualifying shipments to pool distributing plants within the call area, for the purpose of pooling a handler's or unit's reserve supply plant(s), to originate from any plant or producer milk supplies of the handler or unit.

At the hearing, Kraft's witness testified that the firm prefers that there be no change in the present reserve supply plant pooling provisions. The witness said that Kraft believes that the order is working satisfactorily at present. Nevertheless, the witness presented a modified version of the Kraft proposal that was published in the hearing notice. The modified version of the proposal was intended for consideration by the Department in the event that unit pooling for reserve supply plants was recommended by the Department for adoption in the order.

The modified version was that two or more handlers should be allowed to form a unit, but that the order should retain the present provisions which provide that qualifying shipments from sources other than the plant(s) subject to the call must be in addition to any shipments (including shipments directly from a producer's farm) already being made by the handler or unit. Kraft's

witness said that including the 9(c) deliveries of a cooperative association to pool distributing plants as qualifying shipments would be inequitable to proprietary handlers because the milk supplies associated with such deliveries are located relatively close to pool distributing plants. Proprietary handlers operating reserve supply plants, the witness said, generally have their mlk supplies located close to such plants. Consequently, it is not feasible to deliver the milk direct from farms to pool distributing plants.

Consolidated Badger Cooperative proposed that qualifying shipments to pool distributing plants within the call area, for the purpose of pooling its reserve supply plant, include milk that is delivered to pool distributing plants by a cooperative in its capacity as a 9(c) handler. The witness for the cooperative said that such a provision would save the cooperative from having to back-haul producer milk if a call were issued. The round trip distance to back-haul the milk would be 80 miles (40 miles from the farm of last pickup to Consolidated's reserve supply plant and then 40 miles back on the way to the pool distributing plant of final receipt).

Witnesses representing Mid-America Dairymen, Inc. (Mid-Am), and Associated Milk Producers, Inc. (AMPI), testified in opposition to the unit pooling proposals. However, they supported proposals to include 9(c) deliveries to pool distributing plants as qualifying shipments from a cooperative association's reserve supply plant. The representative of Farmers Union Milk Marketing Cooperative (Farmers Union) opposed the unit pooling proposals for cooperatives and the proposals to include 9(c) milk as qualifying shipments. The Farmers Union witness said that the organization would not oppose unit pooling if proprietary handlers also were permitted to unit pool. A witness representing six proprietary handlers who operate reserve supply plants in Wisconsin opposed the unit pooling proposals and the proposals to include 9(c) milk as qualifying shipments.

It is concluded that 9(c) deliveries should be considered in qualifying reserve supply plants during a "call", but that the unit pooling of rerseve supply plants should not be provided for cooperatives or proprietary handlers. The following discussion deals with the 9(c) delivery issue first and then with the unit pooling issue.

Deliveries of 9(c) milk. It is appropriate, whenever the market administrator finds it necessary to issue a call, to consider the deliveries of milk to pool distributing plants in the call area by a cooperative association in its capacity as a handler pursuant to § 1068.9(c) as qualifying shipments for the purpose of meeting the minimum shipping requirements of the cooperative's reserve supply plant(s). Permitting such 9(c) deliveries to be considered as qualifying shipments would promote the efficient handling of milk supplies for the market. Also, it would tend to preclude the practice of having producer milk hauled to a pool reserve supply plant for transfer to pool distributing plants solely to enable the reserve supply plant to meet the minimum shipping requirements for pooling such plants.

The record established that for 3 to 5 days a week the milk of one cooperative is delivered direct from farms to a pool distributing plant at Rochester, Minnesota, as 9(c) milk. These deliveries represent about 15 percent of the cooperative's total producer milk supplies. The cooperative instituted this delivery pattern because the producers affected are located about 40 miles closer to Rochester than is the cooperative's reserve supply plant at Rice Lake, Wisconsin. Rice Lake is about 140 miles from Rochester. Delivering the milk of these producers directly to the Rochester distributing plant eliminates transporting the milk 40 miles from the farm of last pick-up to Rice Lake and then 40 miles back on the way to Rochester, a savings of 80 miles. Under present order provisions, if a call were issued, the cooperative would either have to transport these milk supplies the extra 80 miles so that they would be considered a transfer from its Rice Lake reserve supply plant, or it would have to ship additional milk from its reserve supply plant. The specific distributing plant the cooperative is supplying may not need more milk because not all distributing plants in the call area would necessarily need the same amount of additional milk. In this circumstance, it might be necessary for the cooperative to back-haul to its reserve supply plant the milk not needed at the distributing plant. This would represent an inefficient and fuel-wasting action. Both types of shipment would put additional cost burdens on the cooperative solely for pooling purposes.

Another cooperative association operated a reserve supply plant at Owatonna, Minnesota prior to August 1980. In August 1978, in anticipation of a call for the month of September, the cooperative rerouted some milk supplies which had been delivered to distributing plants as 9(c) milk through the Owatonna reserve supply plant to assure that such deliveries would be considered qualifying shipments under a call. Rerouting these milk supplies through the reserve supply plant was not only less economical but it required two additional pumpings of the milk and delayed its delivery to the distributing plants. Even though the cooperative was delivering about 20–25 percent of its total producer milk supplies to pool distributing plants, it was necessary to reroute some milk supplies through one of its reserve supply plants so that all of its reserve supply plants in the call area would meet the 17 percent minimum shipping requirement that had been announced by the market administrator. Permitting 9(c) deliveries to pool distributing plants to be considered as qualifying shipments from a cooperative's reserve supply plant would tend to eliminate the need for such uneconomic movements of milk.

Cooperative associations in this market supply more than two-thirds of the milk received at pool distributing plants. Thirty-nine percent of the total bulk fluid milk products received at pool distributing plants from sources pooled under the Upper Midwest order are received from supply plants and reserve supply plants operated by cooperative associations, and 25 percent are received from cooperatives as 9(c) handlers. Additional milk is received by cooperatives at their pool distributing plants directly from the farms of producer members. Since cooperative associations are the major suppliers of milk to pool distributing plants, they should be encouraged to deliver the milk in the most economical manner possible. Considering 9(c) deliveries as qualifying shipments from reserve supply plants could encourage cooperatives to expand the use of this efficient method of delivering milk. Some cooperatives are receiving producer milk at their reserve supply plants for transshipment to distributing pool plants. Such milk could be delivered more efficiently as 9(c) milk. The cooperatives are handling the milk in this way to assure that the deliveries to pool distributing plants would be counted as qualifying shipments from their reserve supply plants in the event of a call. Including 9(c) deliveries as qualifying shipments would allow these cooperatives to deliver milk more efficiently.

The order provisions presently consider diversions of producer milk from a proprietary handler's reserve supply plant to a pool distributing plant as a qualifying shipment from the reserve supply plant. Cooperative associations cannot avail themselves of this provision because any producer milk they deliver directly from producers' farms to pool distributing

plants of other handlers is considered a delivery of 9(c) milk. Thus, considering 9(c) deliveries to pool distributing plants located in the call area as qualifying shipments for their reserve supply plants would afford cooperative associations treatment under the order that is comparable to what is now given to reserve supply plants operated by proprietary handlers.

Kraft, Farmers Union, and six proprietary handlers opposed the proposal to consider 9(c) deliveries as qualifying shipments from a cooperative association's reserve supply plant. Opponents said that adoption of the proposal would result in proprietary handlers being required in the event of a call to supply the extra milk needed at distributing plants. In opponents' view, this would force proprietary handlers to furnish a disproportionate share of the fluid milk supply needed by distributors.

Opponents also claimed that allowing 9(c) deliveries to be considered as qualifying shipments for pool reserve supply plants would be inequitable to proprietary handlers because the milk supplies included in the 9(c) deliveries are from dairy farms located relatively near to pool distributing plants and are not associated with any specific reserve supply plants of cooperatives. Opponents claimed that proprietary handlers, on the other hand, receive most of their milk from producers who are located relatively near to their reserve supply plants and do not have the opportunity to organize milk supplies from producers who are located relatively close to pool distributing plants. This, they claim, prevents proprietary handlers from supplying distributing plants in the most efficient manner as direct-delivered milk because the relatively poor roads and bridges in many rural areas of Minnesota are not suitable for the efficient hauling of producer milk over long distances.

The adoption of the proposal should not force proprietary handlers to furnish a disproportionate share of the fluid milk supply or be otherwise inequitable to proprietary handlers. Not all 9(c) deliveries to pool distributing plants are from farms located relatively close to such distributing plants. As described elsewhere in this decision, some 9(c) deliveries are from farms that are located 100 or more miles from such plants. Further, if the market administrator were to determine that additional milk supplies were needed at pool distributing plants for Class I use and he issued a minimum shipping requirement of 15 percent, each handler who operated a reserve supply plant would have to deliver at least 15 percent of his receipts to distributing plants. To illustrate, assume that a cooperative association that operated a reserve supply plant already was shipping 15 percent of its total producer milk supply to distributing plants in the call area as a 9(c) handler. In this event, the cooperative association would not be required to ship any additional milk to pool distributing plants to meet the 15 percent shipping requirement. Also, assume that another handler who operated a reserve supply plant was not shipping any milk to pool distributing plants at the time the call was issued. In this case, the handler would have to begin shipping 15 percent of his receipt to distributing plants. Thus, in this example, the entire supply of extra milk would come from the handler who previously had not been shipping milk. However, the cooperative association that was supplying 15 percent of its milk supply to distributing plants in the call area still would be supplying as much of its receipts to the fluid market as the handler who had to begin shipping milk. If the 9(c) deliveries were not counted as qualifying shipments, the cooperative association would have to either ship 30 percent of its receipts to meet the 15 percent minimum shipping requirement or receive, inefficiently, the 9(c) milk at its pool reserve supply plant for transhipment to distributing plants. In either case, a greater burden of performance for pooling would be placed on the cooperative association that was already supplying the fluid market than would be placed on the handler who had to begin shipping milk. Thus, including the 9(c) deliveries as qualifying shipments would place a more equitable burden of performance on both the cooperative association and the handler.

A proprietary handler who operates a reserve supply plant excepted to the conclusion of the recommended decision to permit 9(c) deliveries to be considered as qualifying shipments from the reserve supply plant of a cooperative association in the event of a call. Exceptor stated that the recommended decision did not consider the inequity of permitting one reserve supply plant to manufacture at full capacity while another one must reduce manufacturing volume to meet the call requirements. We do not believe that this claim is accurate. Such considerations were fully evaluated in developing the recommended decision and were discussed in the decision. A cooperative association that supplies distributing plants with 9(c) milk on a continuing basis, regardless of whether or not a call is issued, has its manufacturing efficiency reduced somewhat. On those days of the week that the distributing plant does not need the 9(c) milk the cooperative association must dispose of it. Often the cooperative will deliver the milk to its reserve supply plant for manufacturing. On peak bottling days, however, the cooperative may need to supply additional milk from its reserve supply plant to supplement the 9(c) deliveries. Even though the 9(c) deliveries may not be associated with a specific reserve supply plant, the receipts of milk at the cooperative association's reserve supply plant that would be available for manufacturing use could vary from one day to the next during the week because of the varying demands for milk at distributing plants.

Reserve supply plants that do not ship milk on a regular basis do not experience this variation in milk supplies available for manufacturing. These reserve supply plants may maintain a regular supply of milk for their manufacturing operations without concern for the fluid milk requirements of distributing plants, except on those occasions when they must ship milk in response to a call. It appears that the "inequity" exceptor referred to involves the inequity to a cooperative association that delivers 9(c) milk to distributing plants when such deliveries are not considered qualifying shipments from the cooperative's reserve supply plant. A more equitable sharing of the burden would occur if the 9(c) deliveries were considered qualifying shipments, as is provided by the decision. Accordingly, the exception is denied.

The exceptions filed by six proprietary handlers stated that only 9(c) deliveries to pool distributing plants located within the call area should be counted as qualifying shipments from a cooperative association's reserve supply plant. Exceptors stated that the order should clearly specify that 9(c) deliveries to distributing plants located outside the call area should not be considered as qualifying shipments. In this connection, § 1068.7(d)(4)(ii)(*a*) of the accompanying order amendments provides that milk supplies for which a cooperative association is the handler pursuant to § 1068.9(c) are qualifying shipments only when they are delivered to pool distributing plants within the call area. Neither the decision nor the order amendments would include any other 9(c) deliveries as qualifying shipments for the purpose of meeting the minimum shipping requirements of the cooperative's reserve supply plant(s). Further, in the monthly report of receipts and utilization filed by a cooperative association as a 9(c) handler, the

cooperative must specify the quantity of milk delivered to each pool plant separately. Based on this information, the market administrator would know the amount of 9(c) milk delivered by the cooperative to pool distributing plants in the call area.

That part of the proposal that would permit shipments from a handler's plant that is not subject to the call to be considered as qualifying shipments for the handler's reserve supply plant that is subject to the call should not be adopted. There was no specific testimony presented at the hearing concerning the need to revise this provision. The findings contained in the Assistant Secretary's March 19, 1976, Final Decision (41 FR 12436), of which official notice was taken at the hearing, set forth the reasons why the order should not recognize shipments from one plant not subject to the call as satisfying a shipping requirement on another plant that is subject to the call. The Assistant Secretary found that to recognize such shipments already being made from another plant could relieve a multiple-plant handler from having to supply any milk to distributing plants in the call area. There is no basis on this hearing record to change that provision. Accordingly, that part of the proposal is denied.

Unit pooling. The proposal that would permit two or more cooperative associations to form a unit for the purpose of meeting a call, and the proposal that would also permit two or more proprietary handlers to form a unit should not be adopted. Adoption of the proposals would not promote the orderly marketing of milk in the Upper Midwest marketing area.

One proponent indicated that adoption of the proposal for cooperative associations would allow such associations who have member-producers located near the metropolitan areas of Minneapolis-St. Paul, Minnesota, and Rochester, Minnesota, to supply milk to pool distributing plants in these metropolitan areas for cooperatives that are located in more distant areas of the milkshed. Such an arrangement, it was claimed, would save transportation costs and would promote the efficient handling of milk in some instances.

To illustrate this, a witness for LOL presented an example citing a member-cooperative that operates a reserve supply plant at Greenwood, Wisconsin (Zone 4). The witness said that although the Greenwood cooperative is a member fo the LOL marketing organization, it is a separate corporation that is independent of the LOL cooperative. He said that Greenwood, not LOL, supplies milk to a pool distributing plant at Rochester, a distance of about 140 miles. The witness stated that Greenwood is supplying the milk because it prefers to ship voluntarily rather than be forced to ship as the result of a call. LOL, the witness said, has member producers located southwest of Rochester whose milk is pooled at its Fairbault, Minnesota, plant. The milk of these producers, he said, actually goes through Rochester when it is delivered to a nonpool manufacturing plant.

Presently, the witness, said, it would not pay LOL to supply the Rochester distributing plant on behalf of the Greenwood cooperative because, in the event of a call, LOL's deliveries would not be considered qualifying shipments from the Greenwood cooperative. Also, if LOL delivered the milk directly from the producers' farms to the Rochester distributing plant, the deliveries would be considered a receipt of 9(c) milk at the distributing plant and would not be considered qualifying shipments from anyone's plant.

Under the proposal, the witness said, Greenwood and LOL could form a reserve supply plant unit. In such case, and if 9(c) deliveries were considered qualifying shipments, then LOL could supply the Rochester distributing plant with milk from the nearby sources as a 9(c) handler for Greenwood and such deliveries would be considered qualifying shipments from the reserve supply plant unit that included the Greenwood plant.

In proponent's example, LOL would actually be supplying additional milk to distributing plants. This would be the milk Greenwood presently is delivering to the Rochester pool distributing plant. However, this would not be the situation in many circumstances on a marketwide basis. Situations could occur where a cooperative association, or proprietary handler, supplying a relatively high proportion of its total milk receipts to pool distributing plants forms a unit with other handlers that do not supply milk to pool distributing plants. In this example, the total deliveries already being made by the cooperative or proprietary handler to pool distributing plants would be sufficient to satisfy the shipping requirements of the entire unit. Thus, in this situation, the cooperative or proprietary handler that supplies distributing plants may not need to increase its total deliveries and the formation of the unit would merely allow those cooperatives and proprietary handlers that do not supply milk to pool distributing plants to evade making any such shipments in the event of a call. This would result in those cooperative associations and proprietary handlers that were not included in a unit being required to supply the additional milk.

Each cooperative association and each proprietary handler that supplies milk for Class I use to pool distributing plants within a designated call area should receive full credit for all such deliveries. But, every operator of a reserve supply plant should be required to deliver at least the minimum shipping percentage to distributing plants. Otherwise, the producer milk supplies associated with those plants that do not ship milk would not be a bona fide reserve supply for the fluid market. For these reasons, the proposals that would allow two or more cooperative associations or proprietary handlers to form a reserve supply plant unit are denied.

b. *Loss of pooling status.* No change should be made in that part of the pool plant definition which provides that "Failure of a handler to comply with any announced shipping requirement, including making any significant change in his marketing operations that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of pool status for the plant * * *." It was proposed that the words "or forcing" in this provision be deleted. Further, the proposal that would cause the loss of pool status for *all* of the reserve supply plants of a handler if the handler failed to comply with any announced shipping requirement also should be denied.

The order now provides that a reserve supply plant shall lose its pooling status if (1) the handler makes a significant change in marketing operations that has the impact of causing a shortage of milk for fluid use and forcing a "call" or (2) the handler fails to comply with any announced shipping requirement, including any significant change in operations that has the impact of evading such announcement. The order also provides that a reserve supply plant that losses pool status in this manner may not qualify again as a reserve supply plant for one year. Each of these provisions refers only to the handler's *individual* plant that is involved in the described action.

Land O' Lakes proposed that the words "or forcing" in § 1068.7(d)(4)(iii) be deleted. LOL's witness testified that this is an ambiguous provision which has never been used. Mid-Am and AMPI also supported the proposal. Six proprietary handlers and Kraft opposed it.

Proponent's witness is correct in saying that the market administrator has

never depooled a reserve supply plant because a handler forced a call. However, this does not mean that the provision has had no impact on marketing conditions. Situations may well have occurred where a reserve supply plant handler considered withdrawing some deliveries to pool distributing plants to force a call but didn't take that course of action due to this provision. Testimony on the record indicated that there has been outstanding cooperating among handlers and the market administrator in assuring that pool distributing plants have sufficient milk to fill their Class I requirements without the necessity of the market administrator issuing a call. Deletion of this provision from the order could undermine the continuation of such cooperation because a single handler could then take certain actions that would force the market administrator to issue a call. The record evidence indicates that handlers, in general, prefer to ship milk voluntarily to distributing plants rather than be required to ship in response to a call. The provision tends to reinforce this marketing preference.

Proponent's witness also claimed that this provision is ambiguous and that it would be very difficult to define exactly what constitutes "forcing a call." He said that if a reserve supply plant handler stopped delivering milk to a pool distributing plant it would be very difficult to determine whether it was because the buyer and seller could not agree on the terms of sale or whether it was because the seller was attempting to cause a shortage of milk which would force the market administrator to issue a call, in which case other plants might be required to supply milk to the market. It is true that it might be difficult to determine the real reason for the cessation of many transactions. However there could be instances where the reason is absolutely clear that the reserve supply plant handler ceased delivering milk to a pool distributing plant for the sole purpose of forcing the market administrator to issue a call. As described elsewhere in this decision, allowing a handler to force a call could undermine the outstanding cooperation which has existed among handlers in supplying milk to the market, and could lead to disorderly or chaotic marketing conditions.

The witness for LOL indicated that a handler who is shipping less milk than the market average is more responsible for forcing a call than is a handler who is shipping more milk than the market average but who reduces his shipments to the fluid market. The LOL witness stated that reduced performance is a serious competitive problem in the Upper Midwest market and that there are occasions when forcing a call is justified to assure more equitable performance. LOL apparently believes that all reserve supply plants should ship about the same proportion of their milk supply to distributing plants.

It is not intended that each pool reserve supply plant should ship milk to distributing plants on a regular basis. In the Assistant Secretary's 1976 decision adopting the Upper Midwest order, it was found that in the interest of continuing orderly marketing, pooling standards were needed in the merged order that would accommodate the pooling of most of the Grade A milk produced within the marketing area. To accomplish that objective, the Assistant Secretary adopted the present pool reserve supply plant provisions. In essence, they provide that any plant located in the marketing area which received Grade A milk from dairy farmers may be a pool plant if it meets certain requirements. The chief requirement is that it has shipped a load of milk to a distributing plant regulated under a Federal order. Further shipments are not required unless the market administrator issues a call. If it had been intended that a reserve supply plant should make regular shipments, the order presumably would have required minimum monthly shipping standards.

The Assistant Secretary also found that to enable the market administrator to determine the appropriate level of shipping performance to announce in the event of a call, and to insure that plant operators respond to an announced call for milk as contemplated under these provisions, certain actions otherwise open to a handler must be precluded. Thus, the Assistant Secretary concluded that any change in a handler's marketing operations which has the impact of either evading or forcing a call should result in immediate loss of pool status for the plant as a reserve supply plant.

The hearing record indicated that the market has an ample supply of reserve milk. During 1979 and 1980, only 20 percent and 18 percent, respectively, of the producer milk pooled under the order was used as Class I milk. Under such circumstances, requiring a pool reserve supply plant to make reguar minimum shipments to pool distributing plants could cause uneconomic movements of milk solely to assure continued pool status for the reserve supply plant. These uneconomic movements of milk could result if the words "or forcing" were removed from this provision and a reserve supply plant handler could force the market administrator to issue a call without concern that his reserve supply plant would lose its pool status. Thus, orderly marketing would not be promoted if a handler could alter his marketing practices to cause a shortage of milk for Class I uses, thus forcing the market administrator to issue a call. Permitting a reserve supply plant handler to have such an alternative at his disposal not only would end the beneficial cooperation that has prevailed in the market but also it could lead to disorderly or possibly chaotic marketing conditions in the Upper Midwest market. For these reasons, it would not be appropriate to change the provisions as requested. Accordingly, the proposal is denied.

The cooperative association that proposed deleting the phrase "or forcing" excepted to the denial of its proposal. Exceptor stated that the threat of being forced to deliver milk in response to a call, not the potential loss of pool status due to forcing a call, is what has contributed to the cooperative environment in the market. We agree with that statement. In fact, the intent of the findings set forth previously in this decision is that reserve supply plant handlers prefer to ship milk voluntarily rather than in response to a call. If one handler could force a call without concern that his reserve supply plant would lose its pooling status then his action could end the cooperation of those other reserve supply plant handlers who prefer to ship milk voluntarily. This consequence was one of the reasons the proposal was denied.

Exceptor also indicated that the testimony of its witness at the hearing which referred to "equitable" shipments and handlers shipping a "fair share" of the milk supply was not intended to imply that all handlers should ship an equal proportion of their milk supply all year long. Exceptor said the intended implication was that the market administrator through his knowledge of the market is in a better position to determine what portion of a handler's milk supply should be delivered to the fluid market. Exceptor concluded that by eliminating the words "or forcing," handlers could give the market administrator an opportunity to use the call provision to improve market efficiency and equity. In exceptor's view this would increase the cooperation within the market.

We cannot agree with exceptor that deleting the words "or forcing" would yield the desired results. As stated in this decision, removal of these words

could lead to disorderly marketing conditions which would be contrary to the purposes of the Act. Accordingly, the exception is denied.

LOL also proposed that if a handler failed to comply with an announced shipping requirement with respect to any of his reserve supply plants then all such plants of the handler would lose their pool status as reserve supply plants. LOL's witness stated that if a handler is not willing to meet the shipping requirements with respect to one of his reserve supply plants then it must be assumed the handler would not be willing to do so with respect to his other reserve supply plants, including those plants that are located outside the call area. AMPI, Mid-Am, Farmers Union and six proprietary handlers opposed the proposal.

The record evidence does not support LOL's position on this point. AMPI operates a reserve supply plant in Duluth, Minnesota, that supplies milk to the Duluth fluid market. If a call were issued, with the call area similar to the area included in the September 1978 call, it would not include AMPI's Duluth reserve supply plant. If AMPI failed to meet the minimum shipping requirement of one of its reserve supply plants that was subject to the call, the loss of that plant's pool status should not affect the pool status of AMPI's Duluth plant because the Duluth plant is supplying a fluid market. To provide otherwise would unduly penalize the Duluth reserve supply plant which had no association with the call area.

The LOL witness also said that without such a provision a multi-plant handler could associate his producers with one of his reserve supply plants that is located outside the call area. In this way, he said, the handler could avoid shipping any milk to pool distributing plants in response to the call while keeping his producer milk supplies pooled under the order. The witness said that the proposal would prevent handlers from circumventing the call in this manner.

The exhibits prepared by the market administrator indicated that this probably would be a rather expensive transfer of producer milk for all multi-reserve supply plant handlers, except LOL. Based on the September 1978 call area, it appears that, except for LOL, the nearest reserve supply plant of any handler located outside the call area to a reserve supply plant of the same handler located within the call area would be at least 80 miles. This is the distance from AMPI's plant at Turtle Lake, Wisconsin (inside the 1978 call area) and its plant at Hinckley, Minnesota (outside the 1978 call area). For LOL, the distance is only about 30 miles between its plant at Milaca, Minnesota (inside the 1978 call area) and its plant at Pine City, Minnesota (outside the 1978 call area).[1]

The pooling standards established under the Upper Midwest order relate to the performance by individual plants of a handler, regardless of whether the plants are being qualified for pool status as distributing plants, supply plants or reserve supply plants. The Assistant Secretary, in his 1976 decision, stated that each reserve supply plant operated by a handler must qualify on its own performance, even though to implement operating efficiency qualifying shipments need not originate from the plant on which a call is made. Thus, it would not be appropriate to provide that all of the reserve supply plants of a handler lose their pool status as reserve supply plants in the event the handler failed to meet the minimum shipping percentage with respect to one of his plants. Accordingly, the proposal is denied.

Issue No. 2. Handler definition. Section 1068.9(c) of the handler definition should be revised to include a cooperative association that receives bulk tank milk at a producer's farm for delivery to its *own* pool plant. Also, § 1068.9(b) should be revised to include a cooperative association that diverts milk from its *own* pool plant.

The present handler definition provides in § 1068.9(c) that a cooperative association shall be the handler for milk that it receives for its account from the farm of a producer for delivery to the pool plant of *another* handler in a tank truck owned and operated by, or under the control of, such cooperative. Also, a cooperative association is the handler under § 1068.9(b) for producer milk that it diverts to a nonpool plant from the pool plant of *another* handler. For milk that is received at or diverted from the pool plant of a cooperative association, the order provides that such receipts and diversions shall be reported on an individual plant basis in the same way that proprietary handlers report receipts and diversions for their plants.

Land O' Lakes, which operates two distributing plants and eight reserve supply plants that are regulated under the order, proposed the adopted changes to simplify its accounting for skim milk and butterfat. LOL claimed that these changes would allow it to include in a single report information that now must be segregated for inclusion in several reports.

The proposal was opposed by six proprietary handlers who expressed concern that the proposal might permit cooperative associations to shift the burden of supplying milk for the fluid market to proprietary handlers.

The order should permit a cooperative association to submit a single report that includes all of its receipts of milk from producers and all of its diverted milk, irrespective of whether the milk is associated with the plants of other handlers or with the cooperative's own plants. The proponent cooperative association maintains at its headquarters records of its total procurement for the market. Such information includes the total pounds and butterfat test of milk received from each producer and data regarding deliveries of such milk to pool plants and diversions to nonpool plants. Since different loads of milk from the same group of producers may go to several different plants during the month (including the cooperative's own pool distributing plants and pool reserve supply plants, nonpool plants and conceivably pool plants of other handlers), it is necessary for the cooperative to determine which loads of milk were associated with each of its own pool plants, including diversions from such plants to nonpool plants. This information is then added to the information contained in the cooperative's individual plant's report.

Proponent operates a pool distributing plant at St. Paul, Minnesota, and a pool reserve supply plant and nonpool manufacturing plant at Pine City, Minnesota. Milk received from the same group of producers can be received at all three plants during the same month. Presently, it is necessary for proponent to track the movement of milk from individual producers because receipts at the distributing plant must be kept separate from the receipts at the reserve supply plant and any diversions to the nonpool plant must be included in the report for the pool plant of last receipt. Specifying that the cooperative association shall be a handler pursuant to § 1068.9 (b) and (c) with respect to the quantity of milk received at producers' farms for delivery to its own pool plants or diverted from such plants to nonpool plants would eliminate this extra bookkeeping expense.

Making a cooperative association the 9(c) handler on deliveries of milk to its own distributing plant also would permit these deliveries to be counted as qualifying shipments from its reserve supply plant in the event of a call. This

[1] Official Notice is taken of the "Standard Highway Mileage Guide" issued by Rand McNally and Company, Chicago/New York/San Francisco, Copyright 1978.

would comport with the findings made previously in this decision that all deliveries of milk by a handler to pool distributing plants in the call area should receive credit towards meeting the minimum shipping requirement of the handler's reserve supply plant. To the extent that these 9(c) deliveries by a cooperative association to its own distributing plant would reduce the amount of milk the cooperative would have to ship to distributing plants from its reserve supply plant to meet the minimum shipping percentage, that quantity of milk would have to be delivered by reserve supply plants of other handlers. However, this would not shift the burden of supplying milk for fluid use to other handlers, as contended by opponents. Rather, it would merely be recognizing all of the deliveries to the fluid market that were already being made by a cooperative association. The provisions adopted herein plus the provisions adopted in Issue No. 1 would recognize all of a cooperative association's deliveries to distributing plants in the call area that are needed for fluid use.

The exceptions filed by six proprietary handlers expressed concern that making a cooperative association a handler pursuant to § 1068.9 (b) and (c) on milk associated with its own pool plant could permit such a cooperative to increase the quantity of Class III shrinkage assigned to its pool plant. Exceptor expressed concern that a cooperative association which operates a distributing plant and which also is a 9(c) handler on milk delivered to pool plants of other handlers could have any excess shrinkage at its own distributing plant offset by the Class III shrinkage allowed on its deliveries of 9(c) milk to other handlers' plants. This, in exceptor's view, would give the cooperative association a competitive advantage in relation to other handlers.

This would not occur because the classification of milk is determined separately for each pool plant, and the classification of milk for which a cooperative association is a 9 (b) and (c) handler is determined separately from the operations of any pool plant operated by the cooperative association. These provisions prevent a cooperative association from having the excess shrinkage associated with one of its plants being offset by the Class III shrinkage allowed on 9(c) deliveries to another plant.

A proprietary handler who operates a reserve supply plant stated, in comments filed, that he did not take exception to the decision to permit a cooperative association to be the 9 (b) and (c) handler on milk associated with its own pool plant(s). However, the handler stated that if the Secretary adopts the provisions contained in the recommended decision to consider 9(c) deliveries by a cooperative association as qualifying shipments from its reserve supply plant, then the receipts at such plant should include, for purposes of meeting the "call," the milk for which a cooperative is a handler pursuant to section 9(c), and also the milk diverted from the reserve supply plant for which the cooperative is a handler pursuant to section 9(b). In determining a cooperative association's reserve supply plant's receipts for determining the required shipments in the event of a "call" it is appropriate to include in the receipts at such plant the quantity of 9(c) milk delivered by the cooperative to pool distributing plants located in the call area as well as diversions from those distributing plants by the cooperative and diversions from the cooperative's reserve supply plants which are located in the call area.

Issue No. 3. Pricing zones. The pricing zones contained in § 1068.52(a) should be revised by deleting Washington County, Minnesota, from the list of counties included in Zone 2 (minus 6 cents location adjustment). This would cause Washington County to be included within Zone 1 (no location adjustment).

The order now prescribes four pricing zones, with Zone 1 including all the territory both inside and outside the marketing area that is not specifically included in Zones 2, 3, and 4. No location adjustment applies in Zone 1, a minus 6-cent location adjustment applies in Zone 2 and larger minus location adjustments apply in Zones 3 and 4.

Land O' Lakes proposed the change that is adopted because, its witness said, there now is a pool distributing plant located in that county at Woodbury and the plant operator must pay the Zone 1 price to obtain a supply of milk for his Class I bottling needs. There was no opposition to the proposal.

Washington County, Minnesota, presently in Zone 2 is located east of and adjacent to Ramsey County (where the City of St. Paul is located), which is in Zone 1. In the Assistant Secretary's 1976 merger decision, it was found that with respect to the major population centers of Minneapolis-St. Paul and Rochester, Minnesota, the highest priced zone (Zone 1) should be restricted to only the three counties in which these population centers were located (the counties of Hennepin, Ramsey and Olmsted) because there was enough Grade A milk available in the counties bordering these 3 counties to provide all of the fluid milk consumed there, plus an ample reserve. Further, with specific reference to Washington County, it was found that since there were no plants located in that county there was no need to include it in Zone 1.

The hearing record of the current proceeding indicates that conditions have changed sufficiently in Washington County to justify reevaluating the 1976 decision concerning the inclusion of that county in Zone 1. There now is a pool distribution plant located in that county at Woodbury, which is a suburb less than 10 miles from St. Paul. The population of Washington County has increased from 83,000 in 1970 to 113,700 in 1980 (a 37 percent increase) while the number of farms in that county that are marketing milk, as reported by the Minnesota Crop and Livestock Reporting Service, has decreased from 184 in 1974 to only 77 in 1980 (a 58 percent decrease). An Exhibit introduced at the hearing indicated that Washington County is one of the five counties that comprise the so-called Minneapolis-St. Paul metropolitan area. The Woodbury plant competes for fluid sales throughout this metropolitan area with the three handlers located in St. Paul.

On the supply side, the Woodbury plant also must compete with the St. Paul plants for a supply of milk. There are no producers in Ramsey County (St. Paul), and in December 1980 the producers located in Washington County delivered less than 3.5 million pounds of milk. This amount of milk was far short of the quantity needed at these four distributing plants. It costs about the same to transport milk to Woodbury as it does to transport milk to St. Paul because they are less than 10 miles apart. The record established that the operator of the Woodbury plant pays the Zone 1 price for its supply of milk, all of which comes from reserve supply plants. To assure the Woodbury distributing plant of an adequate supply of milk for its Class I needs, the same Class I price is required at this plant as is required at distributing plants located in Ramsey County. This Class I price is necessary because of Woodbury's proximity to St. Paul and because Woodbury is within the metropolitan area. On the basis of this record, it is concluded that Washington County should be included in the area subject to Zone 1 prices.

Issue No. 4. Date partial payment. The order should be revised to provide that on or before the 4th day after the month

handlers shall make a partial payment for milk received during the first 15 days of the month from producers for whom a cooperative association is not collecting payments and who have not discontinued shipping milk to such handlers. The partial payment to such producers should be at a rate that is not less than the uniform price for the preceding month adjusted by the butterfat differential for that month. Partial payments to cooperative associations should continue to be required on or before the 25th day of the month for milk received by handlers during the first 15 days of that month.

Presently, the order specifies that handlers shall make a partial payment to producers and to cooperative associations by the 25th day of the month for milk received during the first 15 days of that month. The rate of partial payment is the uniform price for the preceding month adjusted by that month's butterfat differential. As described later, these provisions have been suspended since November 1976 with respect to partial payments to producers for whom a cooperative is not collecting payments. Final payment is due by the 18th of the following month. The only change in these provisions would be the date of partial payment to producers for whom a cooperative association is not collecting payments.

Six proprietary handlers proposed the adopted change. Their witness testified that producers who ship milk to these handlers prefer receiving payments that are spaced about 15 days apart. The hearing notice also contained a proposal by Clover Leaf Creamery from Marigold Foods, Inc., that the partial payment date to nonmember producers be the 3rd day of the following month. At the hearing, Clover Leaf withdrew support of its proposal and joined in support of the proposal made by the six other proprietary handlers. A representative of Farmers Union testified in support of the initial Clover Leaf proposal that the date of partial payment to nonmember producers be the 3rd day of the following month.

Many of the producers who were brought under the merged order when it became effective on June 1, 1976, had been accustomed to receiving payments 15 days apart. They preferred such payments to the payment dates of the 18th and 25th of the month that were established for the merged order. To accommodate these producers, the pertinent provisions of the order have been suspended since November 1976 so that payments could be made about 15 days apart. The present suspension expires April 30, 1982. The suspensions have been limited to payments to producers for whom a cooperative was not collecting payments.

The record evidence indicates that during the approximately 4½-year period (November 1976–April 1981) that this provision has been suspended, most handlers have paid a partial payment to their individual producers on either the 2nd, 3rd or 4th day of the following month. No partial payments have been made later than the 4th day of the following month.

The witness for Farmers Union testified that during that short period of time in 1976 (June through October 1976) when producers were paid a partial payment on the 25th day of the month, most of them were dissatisfied. He said this was only one week after the producers had received the final payment for their previous month's milk. He said that the new payment schedule upset producers' procedures for paying their bills and for their trips to the bank. Since the issuance of the suspensions, he said, producers have been paid about every 15 days and this is the payment schedule they prefer.

The witness for six proprietary handlers testified that payment to producers at 15-day intervals provides a more practical, uniform, timely and understandable basis for paying producers. Also, he said, it relieves handlers of the burden of issuing two payrolls only one week apart. He pointed out that the adoption of the proposal would eliminate the need for future suspensions of this provision.

The hearing record established that the present provision requiring handlers to make a partial payment to individual producers on the 25th day of the month does not promote the orderly marketing of milk in the Upper Midwest market and, for that reason, it has been suspended since 1976. It is appropriate to revise the date of partial payment to individual producers. Adopting the 4th day of the following month as the date of partial payment, rather than the 3rd, would include all of the dates described on the record on which partial payments have been made during the 4½ years this provision has been suspended. Handlers preferring to make partial payments on either the 2nd or 3rd day of the following month could continue that practice. If the 3rd day of the following month were adopted, then handlers now making partial payments on the 4th day would have to change their partial payment date to the 3rd. The record evidence indicated that producers are satisfied with the various dates on which they now are receiving their partial payments, regardless of whether it is the 2nd, 3rd or 4th day of the following month. There are no compelling reasons to make handlers presently paying on the 4th to switch to the 3rd as the date for making partial payments to their individual producers. Accordingly, the proposal to establish the 4th day of the following month as the date for making a partial payment to producers who are not being paid by a cooperative association should be adopted.

The cooperative association that supported the proposal that the 3rd day of the following month be the date of partial payment to individual producers excepted to the recommended decision's adoption of the 4th day of the following month. Exceptor claimed that the Department erred in not requiring partial payment to producers by the 3rd day of the following month because many Wisconsin producers delivering milk to the Upper Midwest market reside near producers associated with the Chicago Regional market. The Chicago Regional order requires payment to producers by the 3rd day of the following month. In exceptor's view, establishing the same date of partial payment in both the Upper Midwest and Chicago Regional orders would provide more orderly marketing conditions than would be the case if this order establishes a different partial payment date.

No change should be made from the recommended decision concerning the date of partial payment to individual producers. By adopting the 4th day of the following month as the date of partial payment, producers residing in Wisconsin near the Chicago Regional order producers could continue to receive their partial payments on the 3rd day of the following month, as they apparently have done during the 4½ years this provision has been suspended. However, as exceptor's witness testified at the hearing, some Upper Midwest market producers are now receiving their partial payments on the 4th day of the following month and these producers are satisfied with the date on which they now are receiving their partial payments. As stated previously in this decision, there are no compelling reasons to make handlers paying on the 4th to switch to the 3rd as the date for making partial payments to their individual producers, especially since those producers receiving their partial payment on the 4th day of the following month apparently are satisfied with that date. Accordingly, the exception is denied.

To fully incorporate the adopted date of partial payment to producers who are not being paid by a cooperative

association, it also is necessary to revise the language in several other provisions within the payment section. Such changes are corollary in nature and do not involve any substantive change in the intended application of that section. Also, in paragraph (c) of § 1068.73, the reference to "§ 1068.52" is revised to read "§ 1068.75." This revision corrects a typographical error in the section reference that refers to the section concerning plant location adjustments for producers and on nonpool milk.

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

Findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determiend pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Upper Midwest marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement,[1] be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

October 1981, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Upper Midwest marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on February 19, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order[2] amending the order, regulating the handling of milk in the Upper Midwest Marketing Area.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Upper Midwest marketing area.

The hearing was held pursuant to the provisions of the Agricultrual Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record therof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) 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 said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Upper Midwest marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on October 27,

[1] Filed as part of the original document.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

1981, and published in the Federal Register on November 2, 1981 (46 FR 54366), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. In § 1068.7, (d)(4)(ii)(*a*) is revised to read as follows:

§ 1068.7 Pool plant.

* * * * *

(d) * * *

(4) * * *

(ii) * * *

(*a*) Qualifying shipments to pool distributing plants within the call area may originate from any plant or producer milk supplies of the handler provided that shipments from sources other than the plant(s) subject to the call and milk supplies for which a cooperative association is the handler pursuant to § 1068.9(c) must be in addition to any shipments already being made by the handler and may not result from shifting milk supplies from a pool distributing plant outside the call area to one within the call area; and

* * * * *

§ 1068.9 [Amended]

2. Section 1068.9 is amended by removing the language "of another handler" in paragraphs (b) and (c).

§ 1068.52 [Amended]

3. Section 1068.52(a)(2)(i) is amended by removing the word "Washington."

4. In § 1068.73, paragraphs (a), (d) and the introductory text of paragraph (c) preceding subparagraph (1) are revised and a new paragraph (a-1) is added to read as follows:

§ 1068.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the 25th day of the month, each handler shall pay for skim milk and butterfat received during the first 15 days of the month from a cooperative association:

(1) That is a handler pursuant to § 1068.9(a), at not less than the Class I price for the month at the location of the transferee or transferor plant, whichever is higher, adjusted by the butterfat differential for the preceding month;

(2) That is a handler pursuant to § 1068.9(c), at not less than the uniform price at his plant location for the preceding month, adjusted by the butterfat differential for the preceding month; and

(3) That is not a handler but which is authorized to collect payment on behalf of its member producers and has requested that payment be made to it in aggregate, at not less than the uniform price at his plant location for the preceding month, adjusted by the butterfat differential for the preceding month.

(a-1) On or before the 4th day after the end of the month, each handler shall pay for skim milk and butterfat received during the first 15 days of the month from a producer for whom payment is not being made pursuant to paragraph (a) of this section and who has not discontinued shipping to such handler, at not less than the uniform price at his plant location for the preceding month, adjusted by the butterfat differential for the preceding month.

* * * * *

(c) On or before the 18th day after the end of the month, each handler shall make payment at not less than the uniform price for the month, as adjusted by the butterfat differential specified in § 1068.74 and location adjustments specified in § 1068.75, for all skim milk and butterfat received during the month (less the partial payment pursuant to paragraph (a) and (a-1) of this section) to:

* * * * *

(d) In making payments pursuant to paragraphs (a) (2) and (3), (a-1) and (c) of this section, deductions may be made for marketing services pursuant to § 1068.86 and for any proper deductions authorized by the producer. In the event a handler has not received full payment from the market administrator pursuant to § 1068.72 by the 8th day of the month, he may reduce prorata his payments to producers pursuant to paragraph (c) of this section by not more than the amount of such underpayment. Following receipt of the balance due from the market administrator, the handler shall complete payments to producers not later than the next payment date provided under this section.

* * * * *

[FR Doc. 82-5151 Filed 2-25-82; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (New Mexico-8)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 25, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 10, 1982

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued February 23, 1982.

I. Background

On February 11, 1982, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Dakota Formation located in San Juan and Rio Arriba Counties, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and

supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Dakota Formation is located in San Juan and Rio Arriba Counties, New Mexico, in Townships 30 and 31 North, Ranges 2 through 7 West, NMPM, in the Basin-Dakota Gas Pool, in the Rosa Area of the northeastern portion of the San Juan Basin. The average depth to the top of the Dakota Formation is 7,950 feet. The formation is approximately 250 feet in thickness.

The recommended area is subject to New Mexico Order No. R-1670-V, issued on May 22, 1979, which authorizes infill drilling in the Basin-Dakota Gas Pool. Accordingly, certain portions within the proposed area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7317 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atomospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Dakota Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 25, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (New Mexico-8), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Request should be filed with the Secretary of the Commission no later than March 10, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (95) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(71) through (94) [Reserved]

(95) *Dakota Formation in New Mexico.* RM79-76 (New Mexico-8).

(i) *Delineation of formation.* The Dakota Formation is found in Townships 30 and 31 North, Ranges 2 through 7 West, in San Juan and Rio Arriba Counties, New Mexico. The formation is within the Basin-Dakota Gas Pool, in the Rosa Area of the San Juan Basin.

(ii) *Depth.* The Dakota Formation is below the Graneros Shale Formation and above the Morrison Formation. The average depth to the top of the Dakota Formation is 7,950 feet. The formation is approximately 250 feet in thickness.

[FR Doc. 82-5243 Filed 2-25-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[LR-160-81]

Service of Notice of Levy by Mail; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the authority of the Service under the Internal Revenue Code to serve notice of levy by mail. These regulations would provide the public with the guidance needed to comply with the law and would affect persons upon whom notices of levy are served.

DATE: Written comments and requests for a public hearing must be delivered or mailed by April 27, 1982.

The amendments ro § 301.6331-1 are proposed to be effective for levies made after publication of final regulations in the Federal Register.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T,LR-160-81, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Annie R. Alexander of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 2024 (Attention: CC:LR:T)(202-566-3287), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the regulations under section 6331 of the Internal Revenue Code of 1954 (Code) relating to the authority of the Service to seize property by levy. Under section 6331 of the Code the term "levy" includes the power of distraint and seizure by any means. Regulation § 301.6331-1 (a) (1) provides that a levy may be made by serving a notice of levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy.

In order to conserve resources, the Service has increased the number of notices of levy served by mail in accordance with law and longstanding administrative practice. Some persons upon whom notices of levy are served have expressed concern that the Service's longstanding practice has not been explicitly set forth in the regulations. Consequently, the Department of Treasury has decided to amend the regulations to specify the procedures to be followed by the Service in serving a notice of levy by mail. The amendment will also permit persons having more than one office within an Internal Revenue district to designate, with the consent of the district director, one office to which notices of levy are to be mailed.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Statement

Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5. U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these proposed regulations is Annie R. Alexander of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph. A new paragraph (c) is added to § 301.6331–1 to read as follows:

§ 301.6331–1 Levy and distraint.

* * * * *

(c) *Service of notice of levy by mail.* A notice of levy may be served by mailing the notice to the person upon whom the service of a notice of levy is authorized under paragraph (a) (1) of this section. In such a case the date the notice is delivered to the person to be served is the date the levy is made. If the notice is sent by certified mail, return receipt requested, the date of delivery on the receipt is treated as the date the levy is made. If a person has more than one office within the Internal Revenue district, delivery to any one of the offices is sufficient. However, any person may, upon written application to the district director, request that any mailed notice of levy be sent to one designated office within the Internal Revenue district. If the district director concurs, notices of levy by mail must be sent to the designated office until the person and the district director agree that a different office should be designated.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82–5224 Filed 2–25–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–550]

Commercial Diving Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is currently reviewing its safety standard concerning commercial diving operations contained in Subpart T of 29 CFR Part 1910.

The purpose of this notice is to solicit information which will assist OSHA in determining whether its standard for commercial diving operations should be continued without change, revised, or revoked.

DATE: The written information requested in this notice should be submitted by April 12, 1982.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket S–550, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202)523–7894.

FOR FURTHER INFORMATION CONTACT:

Mr. Glen E. Gardner or Ms. Joanne E. Slattery, Directorate of Safety Standards Programs, Room N3463, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202)523–7225.

SUPPLEMENTARY INFORMATION:

Background

OSHA's standard for commercial diving operations was issued on July 22, 1977 (42 FR 37650). The standard, codified at 29 CFR 1910.401–1910.441, contains provisions dealing with personnel requirements, general operations procedures, specific operations procedures, equipment procedures and requirements, and recordkeeping.

Based upon serious questions which have been raised concerning certain specifics of the standard, OSHA invites comments to determine whether further rulemaking is necessary or appropriate. For example, the decompression requirements and specifications that preclude the use of alternative methods of compliance have been questioned. In some cases there may be alternative measures which are more feasible and would ensure employees a level of safety and health comparable to the standards contained in Subpart T. It has also been noted that compliance with certain requirements in Subpart T may place an economic burden on small entities within the industry.

Additionally, interested parties have indicated to OSHA that it is sometimes unclear whether OSHA or the U.S. Coast Guard has jurisdiction for certain commercial diving operations. OSHA believes that the jurisdictional responsibilities must be clearly defined in order that each agency may effectively allocate its resources, and more importantly, divers know which standard applies to their activities.

Finally, on August 12, 1981, the standard for commercial diving operations was designated for review under Executive Order 12291 by the Presidential Task Force on Regulatory Relief.

For these reasons, OSHA has concluded that a comprehensive review is necessary to determine whether Subpart T should be continued without change, revised, or revoked. Any

rulemaking proceeding to revise Subpart T will be conducted in accordance with Section 6(b) of the Act (29 U.S.C. 655(b)) and 29 CFR Part 1911, will be preceded by proper consultation with the Construction Advisory Committee, and will provide adequate public notice and opportunity to comment on proposed changes.

Comments and Information Requested

Through this advance notice, OSHA invites interested persons and organizations to provide written comments relating to the need for a Subpart T revision. In particular, OSHA invites comments regarding the need for modification or deletions. OSHA further solicits information in response to the questions below including, but not limited to, comments pertaining to economic considerations and environmental impact and feasibility. OSHA further requests that available injury and illness data be provided.

Since this review of Subpart T includes evaluating economic considerations in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), OSHA seeks information regarding the economic impact that the current standard has on small entities, including, but not limited to, compliance, reporting, and recordkeeping costs. OSHA also request comments regarding alternatives which would minimize the economic impact on small entities while at the same time accomplishing the objective of protecting employee safety and health.

OSHA also invites written comments and information regarding the following specific issues concerning Subpart T.

1. Would a performance-oriented standard, perhaps accompanied by nonmandatory appendices containing compliance guidelines intended to provide compliance flexibility, adequately address safety and health concerns associated with diving?

2. Should the OSHA standards, which require a decompression chamber for dives deeper than 100 fsw (feet of seawater) (§§ 1910.424(b)(2) and 1910.425(b)(2)), be modified to be consistent with the Coast Guard standard's requirement for a decompression chamber for dives below 130 fsw? It has been suggested that the 100 fsw depth be modified to the depth of 130 fsw since dives can be made to this level and still be inside the no-decompression limits.

3. Should OSHA modify its recordkeeping requirements (§ 1910.440)? If so, which requirements should be altered or eliminated, and why?

4. Should certain post-dive procedures be included in the safe practices manual which the employer is required to develop (§ 1910.420) instead of being required in § 1910.423(b)(1)? It has been suggested that several post-dive requirements can be adequately addressed in the safe practices manual without being mandated after each dive. Such repetitive provisions include instructing the diver to report any physical problems or adverse physiological effects including symptoms of decompression sickness (§ 1910.423(b)(1)(ii)), advising the diver of the location of a decompression chamber (§ 1910.423(b)(1)(iii)), and alerting the diver to the potential hazards of flying (§ 1910.423(b)(1)(iv)), after each dive.

5. Should the requirement mandating a bag type manual resuscitator (§ 1910.421(c)(3)) be deleted? The value of such a device has been questioned, particularly if used by untrained persons, when mouth to mouth resuscitation may be more effective.

6. Should OSHA permit alternatives to § 1910.427(c)(2), which requires that a device be used to minimize the possibility of diver hose lines entangling in propellers during liveboating? An interested group has stated that a device is not practicable and that other means, such as training and coordination of dive crews and vessel captains, would adequately minimize the danger of entanglement.

7. Should the requirement for certain emergency aid telephone or call numbers (§ 1910.421(b)) be modified to permit use of one central emergency aid number? One group questioned the need for telephone or call numbers for five different locations. Instead, they believe a better coordinated emergency response would result if one central location initiates the appropriate calls while leaving lines of communication to the dive location open for emergency purposes.

8. Should OSHA continue to require that a two-way communication system be available at the dive location under all circumstances for the puroposes of obtaining emergency assistance (§ 1910.422(c)(2))? Concern has been expressed that radio communications, for example, are not always possible due to limited radio-telephone frequencies and in some cases dead spots exist in remote locations. For areas where such communications are not possible, how would emergency assistance be obtained?

9. Should alternatives to a diver depth gauge that can be read at the dive location for diving modes other than SCUBA (§ 1910.430(g)(1)) be permitted when diving occurs at 30 fsw and less? An interested group has indicated that equally effective means for determining diver depth exist that would not lessen employee safety and health for shallow (30 fsw) no-decompression dives, and that such alternative means would in fact produce an economic benefit.

10. Should OSHA continue to require a weight belt or assembly (§ 1910.430(j)(1))? If so, should OSHA continue to require that weight belts or assemblies be capable of quick release? One group has suggested that weight belts or assemblies capable of quick release may, in some cases, be hazardous to a diver and further stated that the availability of a weight belt or assembly should be mandatory but that the use of such devices should not be mandatory.

Public Participation

The written comments and information requested in this notice should be submitted by April 12, 1982, in quadruplicate, to the Docket Officer, Docket S–550, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210.

All written submissions, as well as other information collected, will be considered by OSHA in the development of proposed standards or revisions to Subpart T. In addition, these submissions will be available for inspection and copying during normal business hours at the OSHA Docket Office at the address above.

Authority: This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 23rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–5169 Filed 2–25–82; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1910

[Docket No. H–111]

Occupational Exposure to Ethylene Dibromide

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of time for submission of written comments.

SUMMARY: On December 18, 1981, OSHA published an advance notice of proposed rulemaking for ethylene dibromide (46 FR 61671–61676). Comments were requested to be submitted on or before March 1, 1982. Recently, OSHA has received requests from several interested parties for an extension of this comment period. These requests have indicated that additional time is needed to prepare responses which include detailed and recently acquired information. OSHA believes that the information-gathering process will be improved if all interested parties are granted additional time for submission of comments. Thus, OSHA has decided to extend the date for submission of comments by 30 days to March 31, 1982.

DATES: Comments in response to the December 18, 1981, advance notice of proposed rulemaking (46 FR 61671–61676) should be submitted on or before March 31, 1982.

ADDRESSES: Comments, in quadruplicate, should be mailed to Docket Officer, Occupational Safety and Health Administraton, Docket No. H–111, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–7894. All material submitted will be available for inspection and copying at this address.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Officer of Information and Consumer Affairs, Room N–3637, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–8151.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655).

Signed at Washington, D.C., this 23rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–5200 Filed 2–25–82; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1910

[Docket No. H–004]

Occupational Exposure to Lead Proposed Administrative Stay for Stevedoring

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed Administrative Stay.

SUMMARY: OSHA is proposing to administratively stay the application of the lead standard, 29 CFR 1910.1025, to the stevedoring industry. Circumstances unique to the stevedoring industry may make the application of the standard, in its present form, inappropriate. This proposal was first published in the **Federal Register** on December 11, 1981 (46 FR 60758).

DATES: Comments due March 29, 1982.

ADDRESS: Written comments should be submitted to the Docket Officer, Docket No. H–004, Occupational Safety and Health Administration, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N–3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8148.

SUPPLEMENTARY INFORMATION: On December 11, 1981, OSHA published, in the Rules and Regulations section of the **Federal Register**, a Revised Supplemental Statement of Reasons with amendments to the lead standard (46 FR 60758). Among other actions, the revised statement of reasons contained a proposal to administratively stay the application of the lead standard to the stevedoring industry (46 FR at 60762). OSHA indicated, in the revised statement, its intention to publish a separate notice in the Proposed Rules section of the **Federal Register** to notify the public of the proposed administrative stay. This notice will therefore repeat the reasons for the proposed administrative stay set forth in the revised statement.

The revised statement allowed until February 10, 1982 to comment on the proposed stay. While many affected parties have already commented on this issue, the time period for comment will be extended until March 29, 1982 in order to assure the fullest possible public participation.

OSHA has decided to propose administratively staying application of the lead standard to the stevedoring industry. Careful examination of the record evidence in light of the concerns raised by industry's petition for reconsideration have convinced the agency of the need to determine whether any OSHA lead standard should cover this industry and, if so, what form that standard should take. Several factors have prompted the agency to reach this conclusion. First, the operations and exposure problems in the stevedoring industry closely resemble those found in the construction industry. Both industries have only low intermittent exposure to lead. More importantly, both have workforces that move from place to place on the worksite and both have transient workforces. This striking parallel between construction and stevedoring has compelled OSHA to consider whether the peculiar operational characteristics of the stevedoring industry warrants the drafting of a separate lead standard for stevedoring, the drafting of a separate lead standard for stevedoring, as the agency has previously announced for construction.

In addition, a claimed total shutdown of the export-import trade in lead ore forces OSHA to examine the earlier claim advanced by ASARCO and St. Joe that the stevedoring industry should be exempt from this lead standard (46 FR 622½). According to industry's petition, publication of the lead standard led to a decision by the stevedoring companies not to handle shipments of lead ore. That decision was based on the stevedores' belief that the standard's provisions requiring companies to alert their employees to the hazards of lead would trigger the filing of an extensive number of frivolous compensation claims by longshoremen (LIA Pet. at 53–56). ASARCO and St. Joe argued that this anticipated wave of claims would increase the cost of worker's compensation insurance so dramatically that handling lead shipments would become unprofitable (TR. 721, 723). Presently, the agency does not possess the information to evaluate the veracity of the insurance compensation argument of ASARCO and St. Joe, nor does it have any evidence to assist it in measuring the economic impact of the termination of the lead ore carrying trade on the lead mining and smelting industries. This lack of information on such fundamental economic questions provided additional impetus to the agency's decision to reconsider the standard's application to this industry.

Accordingly, OSHA proposes to administratively stay implementation of the lead standard to the stevedoring industry and requests comment on the administrative stay and on: (1) Whether the stevedoring industry should be subject to this, or any lead standard, and (2) if the industry should be subject to a different lead standard, what form should that standard take.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to section 6 and 8 of the Occupational Safety and Health Act (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911.

Signed at Washington, D.C. this 23rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-5199 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Big Cypress National Preserve, Florida; Indian Use and Occupancy Regulations

AGENCY: National Park Service, Interior.

ACTION: Extension of Comment Period.

SUMMARY: On November 12, 1981 (46 FR 55709), the National Park Service published proposed rules to define the statutory rights of the Miccosukee and Seminole Tribes of Indians of Florida within the Big Cypress National Preserve. In an effort to allow more time for public participation the Service is reopening the comment period for an additional 30 days.

DATES: The National Park Service will consider all comments on these proposed rules received by March 29, 1982.

ADDRESS: Comments should be directed to: Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030.

FOR FURTHER INFORMATION CONTACT: Fred Fagergren, Park Manager, Big Cypress National Preserve, Telephone: (813) 695-2000.

SUPPLEMENTARY INFORMATION: The November 12, 1981 proposed rule provides that the Indians be allowed to continue their usual and customary use and occupancy of Federal lands within the preserve, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials; and further provides for maximum Indian participation in any authorized future revenue-producing visitor services within the preserve. The deadline for comment on the rule is extended for 30 days by this notice.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-5239 Filed 2-25-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-5-FRL 2058-6]

Michigan Application for Interim Authorization; Phase I; Hazardous Waste Management Program

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the Federal Register on May 19, 1980, (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Michigan application for Phase I Interim Authorization, inviting public comment, and giving notice of public hearing to be held on the application.

DATE: Comments on the Michigan Interim Authorization application must be received by April 13, 1982.

PUBLIC HEARING: EPA will conduct a public hearing on the Michigan Interim Authorization application at 2:00 p.m. on March 30, 1982. EPA reserves the right to cancel the public hearing if significant public interest in the hearing is not expressed. The State of Michigan will participate in the public hearing.

ADDRESSES: The public hearing will be held at 2:00 p.m. on March 30, 1982, at : Law Building Auditorium, First Floor, Pine and Ottawa, Lansing, Michigan.

Copies of the Michigan Interim Authorization application are available at the following addresses for inspection and copying by the public during normal business hours:

(1) Michigan Department of Natural Resources, Office of Hazardous Waste Management, Environment Services Division, Stevens T. Mason Building, Allegan and Pine, Lansing, Michigan, Telephone (517) 373-2730.

(2) Michigan Department of Natural Resources, Regional Offices, Telephone (517) 373-2730 for specific addresses and hours.

(3) U.S. Environmental Protection Agency, Region V, Waste Management Division, Waste Management Branch, 111 West Jackson—16th Floor, Chicago, Illinois 60604.

(4) U.S. Environmental Protection Agency, Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments and notification of intent to provide oral comments at the hearing and requests for transcripts of the hearing should be sent to: Judy Kertcher, Chief, Regulatory Analysis and Information Unit, State Programs and Information Section, Waste Management Branch, Waste Management Division, U.S. Environmental Protection Agency, Region V, 111 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Lillian Bagus, Regulatory Analysis and Information Unit, State Programs and Information Section, Waste Management Branch, Waste Management Division, U.S. Environmental Protection Agency, 111 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6142.

SUPPLEMENTARY INFORMATION: On May 19, 1980, (45 FR 33063), pursuant to the requirements of sections 3001 through 3006 of The Resource Conservation and Recovery Act of 1976, as amended, (Act), EPA promulgated Phase I of its regulations to protect human health and the environment from the improper management of hazardous waste. Section 3006 of the act provides for the Authorization of a State to administer and enforce a hazardous waste management program in lieu of the Federal program. EPA Phase I regulations established, among other things: the initial identification and listing of hazardous waste; the standards applicable to generators and transporters of harzardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The regulations also provide two different types of EPA approval of State programs: (1) Interim Authorization which will become effective in phases and which may extend for only 24 months after the final component of Phase II of the Federal program has become effective and (2) Final Authorization. Although for Final Authorization the State must have a program which is "equivalent to" and "consistent with" the full Federal program during Interim Authorization States need programs that are only "substantially equivalent" to the Federal program. Any State may submit evidence of a hazardous waste program existing pursuant to State law and may request Interim Authorization to administer and enforce such a program.

EPA shall grant Interim Authorization if the evidence submitted by a State demonstrates that the State program is substantially equivalent to the Federal program.

On February 5, 1982, the State of Michigan submitted its complete application for Phase I Interim Authorization of its hazardous waste management program. This notice solicits public comments on the State of Michigan's application and its hazardous waste management program. The elements of the Federal program are listed in the May 19, 1980, Federal Register. A full description of the requirements and procedures for Interim Authorization of a State hazardous waste program are listed in 40 CFR Part 123 Subpart F (45 FR 33479), and as amended January 26, 1981, (46 FR 8298). To receive Interim Authorization, a State's hazardous waste management program must be substantially equivalent to the Federal program and must meet the requirements in 40 CFR 123.128. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, also as noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Michigan Interim Authorization for Phase I of the RCRA program.

A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony. The hearing will be informally structured. Representatives from the State of Michigan will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA.

As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I Interim Authorization will also be given an opportunity to testify. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available at cost upon request from the address listed above.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

Dated: February 19, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-5272 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6218]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Arizona et al.

Correction

In FR DOC. 81-36281, appearing at page 62099, in the issue of Tuesday, December 22, 1981, please make the following changes:

(1) On page 62107, in the table, for "Ohio", under "Location", for "Covington tributary,", first line, "About 0.0 mile" should be corrected to read, "About 0.1 mile"

(2) On page 62107, in the table, for "Ohio" under "Location", for "Rush Creek", third line, "68" should be corrected to read "668".

(3) On page 62107, in the table, for "Ohio", under "City/town/county", "Licking County" should follow "Kirkersville,", where there is now only space.

(4) On page 62107, in the table, for "Ohio" under last column for feet elevation, for "Rush Creek" in "New Lexington, Perry County", first line, "*875" should be corrected to read, "*857".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-347; RM-3765 and RM-3952]

FM Broadcast Stations in Glenwood and Alexandria, Minnesota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 257A to Alexandria, Minnesota, in response to a counterproposal filed in BC Docket 81-347 by Principals Three Company. Further information is requested of the proponent.

DATES: Comments must be filed on or before January 4, 1982 and reply comments on or before January 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau; (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Further Notice of Proposed Rule Making

Adopted: November 6, 1981.

Released: November 17, 1981.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Glenwood and Alexandria,[1] Minnesota). BC Docket No. 81-347; RM-3765, RM-3952.

1. A Notice of Proposed Rule Making was issued (46 FR 30153, published June 5, 1981) in response to a petition for rule making by Dove Broadcasting, Inc. proposing the assignment of Channel 257A to Glenwood Minnesota. Principals Three Company (Principals) filed a counterproposal[2] urging the assignment of Channel 257A to Alexandria, Minnesota, instead and suggesting that Channel 296A be assigned to Glenwood, Minnesota. In a separate action, the Commission has assigned Channel 296A to Glenwood, Minnesota. Before action can be taken on the proposed channel assignment to Alexandria, however, additional information is needed with regard to the communities precluded by the proposal.

2. Alexandria (population 6,973)[3] is the set of Douglas County (population 22,892). It is served locally by full-time AM Station KXRA, FM Station KXRA (Channel 244A) and FM Station KCMT (Channel 264).

3. According to Principals, Alexandria, Douglas County's largest city, is the center for commercial, cultural and governmental activities. Its population is said to have increased to 7,608 in 1980, representing a ten-year growth rate of approximately 9% over the 1970 population. Principals further claims that Alexandria warrants a third assignment based on its population and volume of commerce.

4. The assignment of Channel 257A to Alexandria will cause preclusion on Channel 254 within 65 miles, Channel 255 within 65 miles, Channel 256 within 105 miles, Channel 257A within 65 miles, Channel 258 within 105 miles, Channel

[1] This community has been added to the caption.

[2] Publilc Notice was given on August 5, 1981, Report No. 1301.

[3] Population figures are taken from the 1970 U.S. Census.

259 within 65 miles and Channel 260 within 65 miles. Principals is requested to submit in comments to this Notice, a list of communities of over 1,000 population which are precluded by the proposed assignment and to state whether alternate channels are available for those communities.

5. The proposed assignment exceeds the Commission's guidelines for a third FM assignment. Since we are concerned with efficiency of the allocation, we have found it necessary to request that petitioner submit a preclusion study which indicates alternate availability of channels for the precluded communities in order to demonstrate that the proposal represents an efficient use of available channels. See *Waycross, Ga.* 47 RR 2d 319 (1980).

6. Since Alexandria is located within 420 kilometers (250 miles the U.S. Canadian border, the proposed assignment of Channel 257A to Alexandria, Minnesota, requires coordination with the Canadian Government.

7. Comments are invited on the proposal to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules) with regard to Alexandria, Minnesota, as follows:

City	Channel No.	
	Present	Proposed
Alexandria, Minnesota	244A, and 264.	224A, 257A, and 264.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before January 4, 1982, and reply comments on or before January 19, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules,* 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

(5) *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-5136 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

GENERAL SERVICES ADMINISTRATION

Office of Federal Procurement Policy

48 CFR Parts 1 and 39

41 CFR Chs. 1 and 101

Use of Proposed Federal Acquisition Regulation (FAR) for Publication of Regulations Governing the Management, Acquisition and Use of Automatic Data Processing and Telecommunication (ADP/T)

AGENCIES: Office of Federal Procurement Policy, Office of Management and Budget, and General Services Administration.

ACTION: Notice of Intent to incorporate ADP/T provisions in the FAR.

SUMMARY: GSA and OFPP have agreed to use the FAR system as a publication vehicle for ADP/T regulations. GSA will continue to develop ADP/T regulations and will continue to publish them in the Federal Procurement Regulations (FPR) and Federal Property Management

Regulations (FPMR) systems until the FAR becomes operative. At that time, they will be consolidated and transferred into the FAR for use by the procurement and contracting community. The intent is to use the FAR to provide, in a single regulation, the GSA directives regarding the ADP/T area.

FOR FURTHER INFORMATION CONTACT: At OFPP: William Maraist, (202) 395–3300; at GSA, Philip Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (202) 523–4755; or Roger W. Walker, (202) 566–0194.

SUPPLEMENTARY INFORMATION: 1. The plan for the FAR structure has always included a Part 39 entitled "Automatic Data Processing Equipment Contracting." No further ADP or telecommunications coverage was in the plan.

2. The scope of the FAR is intended to be broad enough to cover front-end acquisition management functions as well as actual purchasing; i.e., to begin at the point when agency needs are established. GSA's coverage of ADP and telecommunications is broader than the FAR, and includes requirements determination and use, as well as procurement and contracting, provisions. The FPMR system is used for the former, the FPR system for the latter. Additionally, GSA's regulations in this area address "Federal" agencies as contrasted to "Executive" agencies. The ADP portion of the FPR is applicable to the Department of Defense (DOD). However, Public Law 97–86, the DOD 1982 Authorization Act, reduced the scope of applicability to DOD.

3. In May 1979, development of Part 39 and a companion Part 41 addressing telecommunications was suspended. Public Law 96–83, October 10, 1979, amended the Office of Federal Procurement Policy Act (Pub. L. 93–400, August 30, 1974) to add to Sec. 6:

> Nothing in this Act shall be construed—(1) to impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and 20 services . . .

4. One of the purposes of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, December 11, 1980), as set forth in 3501 is—

> (5) to ensure that automatic data processing and telecommunications technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, reduces waste and fraud, . . .

Section 3504(g) of the Act assigns a number of functions to OMB's Office of Information and Regulatory Affairs. Sections 3505(3)(E) and 3513(a) require GSA to provide consultation, advice, and assistance to OMB in planning, review, and evaluation activities. As provided in 3518(d), the Act is not to be interpreted as increasing or decreasing the authority conferred by Pub. L. 89–306 (the "Brooks Act") on the Administrator of General Services, the Secretary of Commerce, or the Director of the Office of Management and Budget. The scope of applicability of the Act to the Department of Defense is reduced as provided in 3502(2).

5. Recognizing that automatic data processing, telecommunications, and office automation technologies are merging, GSA has made special efforts in its regulatory development program to solicit the viewpoints of all agency organizational segments (including procurement personnel) involved in the management, acquisition, and use of ADP/T. The views of outside interested parties have also been sought. These efforts will continue. This procedure is similar to that in FAR Subpart 1.5, Public Participation. Distribution of Part 39 of the FAR will be expanded to include ADP/T agency managers and users. Promulgation will continue in the FPMR and FPR as appropriate until the effective date of the FAR.

6. GSA will develop a modification to Part 1 of the FAR to recognize two aspects of Part 39 that are unique from other portions of the FAR. One, the statutory basis for GSA authorities and responsibilities for the ADP/T provisions in Part 39, as contrasted to the general statutory basis for the FAR. Two, the sole responsibility of GSA for the maintenance of the Part 39 provisions as contrasted to any maintenance scheme that will apply to other portions of the FAR.

7. GSA will develop Part 39 for the FAR, including definition of the scope of the ADP/T provisions, which will place existing FPMR and FPR provisions into the structure with suitable formatting adjustments. FAR Part 39 will incorporate these regulations without substantive change and therefore the FAR issuance will not be published for comments.

Dated: February 22, 1982.

Donald E. Sowle,

Administrator, Office of Federal Procurement Policy, OMB.

Frank J. Carr,

Commissioner, Automated Data and Telecommunications Service, GSA.

[FR Doc. 82-5206 Filed 2-26-82; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Parts 32, 42, and 47

Loan Guarantees for Defense Production, Traffic and Transportation Management, and Contracts for Transportation or for Transportation-Related Services

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR). Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before April 16, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395–3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following parts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 32—CONTRACT FINANCING

Subpart 32.3—Loan Guarantees for Defense Production

This subpart prescribes policies and procedures for designated agencies' guarantees of loans made by private

financial institutions to borrowers performing contracts related to national defense. Congress has authorized Federal Reserve Banks to act, on behalf of guaranteeing agencies, as fiscal agents of the United States in making of loan guarantees for defense production (Sec. 301, Defense Production Act of 1950, 50 U.S.C. App. 2091).

PART 42—CONTRACT ADMINISTRATION

Subpart 42.14—Traffic and Transportation Management

This subpart prescribes policies and procedures regarding traffic and transportation management. It includes volume movements within the continental U.S., shipping documents covering f.o.b. origin shipments, U.S. Government bills of lading (GBL), contractor-prepaid commercial bills of lading, shipments by parcel post or other classes of mail, discrepancies incident to shipment of supplies, and reports of shipment.

PART 47—TRANSPORTATION

Subpart 47.2—Contracts for Transportation or for Transportation-Related Services

This subpart prescribes policies and procedures for the acquisition of freight transportation (including local drayage) from rail, motor (including bus), domestic water carriers (including inland, coastwise, and intercoastal), and freight forwarders, and transportation-related services including, but not limited to, stevedoring, storage, packing, marking, and ocean freight forwarding.

Dated: February 18, 1982.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 82-5241 Filed 2-25-82; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Ch. I

Humane and Healthful Transport of Wild Animals and Birds to the United States; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Service announces a public meeting to receive information and comments with regard to the development of regulations designed to assure the humane and healthful transport of wild animals and birds to the United States.

DATE: The public meeting will be held on Thursday, March 25, 1982, from 9:30 a.m. to 12 noon.

ADDRESSES: (1) The public meeting will be held in rooms 7000 A and B of the Main Interior building of the Department of Interior, 18th and C Streets, NW., Washington, D.C.

(2) Written information and comments should be sent to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

Note.—Written information and comments will be open to public inspection during normal business hours at the Federal Wildlife Permit Office, Room 620, 1000 N. Glebe Road, Arlington, VA 22201.

(3) Requests to be placed on the speakers list should be addressed to: The Federal Wildlife Permit Office (MOB), P.O. Box 3654, Arlington, VA 22203, or telephone: (703) 235-2418.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, VA 22203, telephone: (703) 235-2418.

SUPPLEMENTARY INFORMATION: Recently, the Congress passed and the President signed into law the Lacey Act Amendments of 1981 (Pub. L. 97-79, 95 Stat. 1073). Section 9 of the amendments shifts authority for prescribing requirements for the humane and healthful transport of wild animals and birds from the Secretary of the Treasury to the Secretary of the Interior, any such regulations to be promulgated within 180 days of the effective date of the Act. (The regulations which were promulgated by the Secretary of the Treasury are found in 19 CFR 12.26.)

The legislative history of these amendments indicates that any such regulations to be promulgated should not cover species and activities that are already the subject of humane care and handling regulations pursuant to some other Federal statute. The Service has asked the Assistant Solicitor, Fish and Wildlife for an opinion indicating which other such Federal regulations are extant. In a similar vein, the Service is aware that regulations governing transport of wild animals and birds to the United States should take into account the distinct possibility that transport will continue after importation, in interstate commerce and that at least the Department of Agriculture's regulations (9 CFR Part 3) implementing the mandate of the Animal Welfare Act could apply to the continuation. Thus the Service believes any regulations it promulgates should take into account the need to assure to the extent possible that they operate in conjunction with other Federal regulations in a manner that would not be detrimental to the animals subject to Federal controls.

The United States is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") to which approximately 73 nations belong. CITES controls international trade in certain species which are or may become threatened with extinction. CITES provides for biennial meetings of the "Conference of the Parties" to, among other things, review its implementation and make recommendations for improving the effectiveness of CITES.

At the most recent of these meetings, the parties adopted a set of "Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants" to assist authorized permit issuing authorities (Management Authorities) in determining whether living specimens will be so prepared and shipped as to minimize the risk of injury, damage to health, or cruel treatment. A subcommittee of the Conference of the Parties is developing a system which would facilitate reporting of specimens stressed in transport to the proper authorities. These guidelines were designed to cover all types of transport of wildlife and plant forms and could provide a basis for drafting the subject regulations. The Guidelines may be purchased for $13.00 plus postage from: UNIPUB, 345 Park Avenue South, New York, N.Y. 10010.

Another set of guidelines currently in use are the "IATA Live Animals Regulations" which are produced by the International Air Transport Association to govern, by private agreement among participating air carriers, shipments of live animals in international air transport. Copies may be purchased from: IATA, 1000 Sherbrooke St. W., Box 550, International Aviation Square, Montreal PQ, Canada H3A 2RU.

Announcement of Public Meeting

The Service announces that it will hold a public meeting on Thursday, March 25, 1982, in rooms 7000 A and B of the main building of the Department of the Interior, 18th and C Streets, N.W., Washington, D.C. for the purpose of receiving information and comments from the public as to the structure and content of any regulations developed by the Service which are necessary for the transport to the United States of wild animals and birds under humane and healthful conditions.

Written statements may be submitted to the Service before or at the meeting. Appointments to speak at the meeting may be made with the Federal Wildlife Permit Office (see **ADDRESSES** above). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: February 16, 1982.

Robert A. Jantzen

Director, Fish and Wildlife Service.

[FR Doc. 82-5106 Filed 2-25-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47 No. 39
Friday, February 26, 1982

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

Committee on Judicial Review; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, March 12, 1982, at the offices of Covington & Burling, Main Conference Room (11th Floor), 1201 Pennsylvania Avenue, NW., Washington, D.C.

The Committee will meet to discuss the nature of any response by the Committee to proposed recommendations of the ACUS Committee on Regulation of Business concerning judicial review of agency decisions to withhold or release confidential business information under the Freedom of Information Act and the standard of judicial review of agency decisions under FOIA generally.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Mary Candace Fowler (202–254–7095). Minutes of the meeting are available on request.

Richard K. Berg,
General Counsel.
February 23, 1982.

[FR Doc. 82–5265 Filed 2–25–82; 8:45 am]
BILLING CODE 6110–01–M

ADVISORY COMMITTEE ON FEDERAL PAY

Continuation of Committee; Public Inquiry

This is to request any expressions from the public as to the desirability of continuation of the Advisory Committee on Federal Pay.

The Advisory Committee on Federal Pay was established by the Federal Pay Comparability Act of 1970. It consists of three experts on pay and labor relations who are Federal employees only for the time that they serve on this Committee. The Committee serves as an independent third party in advising the President on salary adjustments for Federal white-collar employees. In making its recommendations on pay increases for these Federal employees, the Committee considers pay in the private sector, the view of Federal employee organizations, government officials and pay experts.

Any comments should be sent in writing to the Advisory Committee on Federal Pay, Suite 205, 1730 K Street, NW., Washington, D.C. 20006, by March 23. Any such communications will be incorporated in the report that the Advisory Committee makes to the Administrator of GSA.

Jerome M. Rosow,
Chairman.

[FR Doc. 82–5111 Filed 2–25–82; 8:45 am]
BILLING CODE 6820–43–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1982 Peanut Program; Determination Regarding a Loan and Purchase Program for the 1982 Crop of Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination.

SUMMARY: This Notice of Determination sets forth, effective with respect to the 1982 crop of peanuts the following: (1) the national average level of support for quota peanuts, (2) the national average level of support for additional peanuts, and (3) the Commodity Credit Corporation (CCC) export edible sales policy for 1982-crop additional peanuts which are pledged as collateral for a price support loan. This determination is to satisfy the requirements of Section 108A of the Agricultural Act of 1949, as amended, (hereinafter referred to as the "Act"), and to provide producers with information which is needed in order to make financial plans in accordance with the program provisions.

EFFECTIVE DATE: February 25, 1982

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, Agricultural Economist, Analysis Division, ASCS, USDA, Room 3732-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5953. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This Notice of Determiation has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local government or geographical regions, or (3) significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this Notice of Determination applies to are: Title—Commodity Loan and Purchases; Number—10.051 as set forth 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 OMB 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 the Department of Agriculture is not required by 5 U.S.C. or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

A description of the applicable statutory authority requiring the

determinations set forth in this notice, as well as the pertinent data relating to these determinations, are set forth below.

Section 108A(1) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts of the 1982 crop. The Act also provides that the national average quota support rate for the 1982 crop of quota peanuts shall be the national average cost of production, including the cost of land on a current value basis as estimated by the Secretary, but not less than 27.5 cents per pound, farmers stock basis.

The determination of the national average loan level for 1982-crop additional peanuts is required by Section 108A of the Act to be made by the Secretary no later than February 15, 1982. In addition, the determination of the national average support level for 1982-crop quota peanuts and the minimum CCC export edible sales price are being made at this time in order to allow peanut producers an opportunity to make financial plans in accordance with the program provisions. Accordingly, it has been determined that no further public rulemaking is required with respect to these determinations which shall become effective upon date of filing with the Director, Office of the Federal Register.

Determinations

After taking into consideration the applicable statutory provisions, the following determinations are being made with respect to the 1982 crop of peanuts:

A. *Applicability.* The support prices specified herein apply to 1982 crop farmers stock peanuts in bulk or in bags, net weight basis, eligible for price support under the General Price Support Regulations at 7 CFR Part 1446.

B. *National average level of support for quota peanuts.* The national average level of support for 1982 crop quota peanuts is $550 per ton.

The cost of production for 1982-crop peanuts was calculated using the three categories of land allocation (composite current value, composite acquisition value, and current land value). Details of these costs are included in the Final Regulatory Impact Analysis.

Because all three methods of calculating peanut production costs for the 1982 crop are estimated to be less than the minimum level of support required by Section 108A of the Act, the national average support level for 1982-crop peanuts shall be the statutory minimum of 27.5 cents per pound or $550 per ton.

C. *National average level of support for additional peanuts.* The national average level of support for 1982-crop additional peanuts is $200 per ton.

Section 108A (2) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1982-crop additional peanuts at such level as the Secretary determines to be appropriate, taking into consideration certain factors. The Act further provides that the Secretary shall establish the level of support for additional peanuts at such level which is estimated by the Secretary to ensure that there are no losses to CCC on the sale or disposal of such peanuts. Additional peanuts are defined in the Act as the following: (A) Any peanuts marketed from a farm for which a farm poundage quota has been established and that are in excess of the quota marketings from such farm; and (B) all peanuts marketed from a farm for which no farm poundage quota has been established. The Act requires that the level of support for 1982-crop additional peanuts shall be announced no later than February 15, 1982. In determining the level of support for additional peanuts of $200 per ton, the Secretary took into consideration the following factors:

1. *Demand for peanut oil and meal.* With the 10 percent increase in 1981–82 peanut supplies, peanuts available for crushing are expected to be up by 49 percent from the 307,500 tons crushed last season. Peanut oil prices could range from 24 cents to 30 cents per pound with an expected average of about 27 cents per pound and peanut meal prices are expected to average about $190 per ton, compared with an estimated 39 cents per pound and $200.00 per ton, respectively, for the 1981–82 marketing year.

2. *Expected prices of other vegetable oils and protein meals.* In 1981–82 world aggregate production of oilseeds is estimated to be 191.2 million tons with peanuts accounting for about 10.6 percent of the total. Because of soybean dominance of the total supply—soybeans account for about 51.2 percent of aggregate world production of oil crops—they will lead the demand-supply-price patterns for oilseeds. While 1981-82 U.S. soybean supplies will rebound from last season's drought-reduced level, the use of soybeans and soybean products may gain only moderately as demand remains weak. This supply-demand situation will push prices down throughout the soy complex. In 1981–82 soybean stocks are expected to build from last year's levels and probably be near the record 1979–80 level. In 1981–82 soybean oil prices are expected to range from 18 to 22 cents per pound, about 1 to 5 cents per pound below 1980–81. Soybean meal prices are expected to range from $175 to $195 per ton, $23 to $43 below 1980–81.

In 1982–83, supplies of soybeans and soybean products are projected to remain high. Demand for meal and oil is expected to continue to show a pattern of strengthening as general economic conditions improve. Soybean oil prices are projected to 6.8 to 30.6 percent and soybean meal prices 2.6 to 14.3 percent over expected 1981–82 levels.

3. *Demand for peanuts in foreign markets.* The demand for U.S. peanuts in foreign markets is expected to remain strong. The U.S. is expected to supply 462,500 tons to the export market in the 1982 marketing year, a 23 percent increase from the 375,000 tons expected in 1981–82.

In addition, to consideration of the above factors, the law also provides that the support rate must be established at a level estimated to insure no loss to CCC from the sale or disposal of additional peanuts placed under loan. In order to determine a loan rate to ensure no loss to CCC, net gains and losses on additional loan pools must be considered. Factors influencing net gains and losses on these pools include initial loan outlays, costs to CCC (for such items as inspection, storage, shrinkage, and fumigation), and projected prices on CCC sales for domestic edible, export edible and crushing, and projected net gains or losses for the quota loan pool. The Final Regulatory Impact Analysis examines these factors in detail.

In addition, this level of support for additional peanuts is projected to result in no loss to CCC on additional loan peanuts and is not expected to adversely affect producer income.

D. *Minimum CCC export edible sales price for additional peanuts pledged as collateral for a price support loan.* The minimum CCC export edible sale price with respect to additional peanuts pledged as collateral for a price support loan is $475 per ton.

The announcement of a minimum CCC export edible sales price with regard to such peanuts is discretionary with the Secretary. This announcement is being made at this time in order to give handlers and growers adequate information on which to base export contracts for additional peanuts.

If the minimum price is established too high, it discourages export contracting between handlers and growers and encourages the production of additional peanuts for the loan program on the assumption that the

minimum sales price is the price growers will receive for their loan peanuts. The opposite may be the case, however, since a misjudgement in the price of edible peanuts in the export market could result in CCC losing edible sales and having to crush the loan inventory. In such case, growers would only receive the additional loan rate. Conversely, if the minimum sales price is too low, returns from exports sales will not be maximized and grower income will be reduced, since export contracts between handlers and growers are generally based on the CCC minimum sales price.

Accordingly, it has been determined that establishing a minimum CCC export edible sales price at $475 per ton for additional peanuts pledged as collateral for a price support loan will maintain farm income on additional peanuts and will minimize risk of loss from the export sales of additional peanuts.

(Secs. 108A, 407, 63 Stat. 1051, as amended (7 U.S.C. 1445c, 1427))

Signed at Washington, D.C., on February 23, 1982.

John R. Block,

Secretary.

[FR Doc. 82-5190 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Mt. Wheeler Power, Inc.; Finding of no Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with proposed financing assistance to the Mt. Wheeler Power, Inc., (Wheeler) for 83 km (53 mi) of 69 kV transmission line, related substation facilities and 525 km (326 mi) of 14.4/29.9 kV distribution line. The proposed construction would be in Lander, Eureka and Nye Counties, Nevada.

Wheeler prepared a Borrower's Environmental Report (BER) and based on this BER and other support documents, REA prepared an Environmental Assessment which concludes that approval of the project does not represent a major Federal action that will significantly affect the quality of the human environment and, in accordance with REA Bulletin 20-21:320-21, has made a FONSI.

Alternatives discussed in the BER are no action, alternative sites for the substation and alternative routes for the transmission and distribution lines.

Copies of the FONSI, REA's Environmental Assessment and Wheeler's Borrower's Environmental Report may be obtained from the office of the Director, Distribution Systems Division, Rural Electrification Administration, South Agriculture Building, Washington, D.C. 20250, or may be reviewed at the office of Mt. Wheeler Power Inc., P.O. Box 1110, East Ely, Nevada 89310.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 19th day of February 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-5225 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

English Coulee Watershed, North Dakota; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: J. Michael Nethery, State Conservationist, Soil Conservation Service, Third and Rosser Avenue, 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 (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the English Coulee Watershed, Grand Forks County, North Dakota.

Pursuant to 7 CFR 650.7(a), J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives under consideration to reach these objectives include systems for conservation land treatment, nonstructural measures, earth dam, and floodway.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. A meeting will be held at 2:00 p.m., Wednesday, March 3, 1982, in the Grand Forks Armory, Grand Forks, North Dakota, to determine the scope of the evaluation of the proposed action. Further information on the proposed action or the scoping meeting may be obtained from J. Michael Nethery, State Conservationist, at the above address or telephone (701) 255-4011, extension 421.

Dated: February 16, 1982.

(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)

J. Michael Nethery,

State Conservationist.

[FR Doc. 82-4976 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-16-M

Spring Valley Watershed Critical Area Treatment RC&D Measure, Wis.

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Cliffton A. Maguire, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone (608) 264-5351.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of 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 Spring Valley Watershed Critical Area Treatment RC&D Measure, Pierce County, Wisconsin.

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, Cliffton A. Maguire, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns critical area treatment. The planned works of improvement include a grade stabilization structure. Conservation practices include grassed terraces, critical area seeding, contour farming and crop residue use.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Cliffton A. Maguire. An environmental impact appraisal has been prepared and sent to various Federal, state, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 29, 1982.

[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: February 16, 1982.

Cliffton A. Maguire,

State Conservationist.

[FR Doc. 82-5071 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

February 19, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 16, 1982	40458	Pacific East Air, Inc., c/o H. Stephen Hostetler, 333 Bayside Drive, Newport Beach, California 92660. Application of Pacific East Air, Inc. pursuant to Section 401 of the Act, and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled air transportation of passengers and property between the following points: Terminal point: Los Angeles, California; Intermediate points: Honolulu, Hawaii; Newark, New Jersey. Conforming Applications, motions to modify scope, and Answers may be filed by March 16, 1982.
Feb. 17, 1982	40462	Harry R. Davis d/b/a Sea Coast Airways, Inc., 93A Seminole Lane, Stratford, Connecticut 06497. Application of Harry R. Davis d/b/a/ Sea Coast Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in Scheduled Air Transportation of persons, property and mail as follows: (a) Between any point in any State in the United States or the District of Columbia and any other point of any State in the United States or the District of Columbia; and (b) In intrastate and interstate air transportation pursuant to contracts with the Department of Defense; and (c) Applicant requests permanent authority to engage in all-cargo air service as defined in Section 101(11) of the Federal Aviation Act, as amended. Conforming Applications, motions to modify scope, and Answers may be filed by March 17, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5236 Filed 2-25-82; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 82-2-105, February 22, 1982, Dockets 37818 and 37976, proposes increased intra-Hawaii final service mail rates for the periods July 1 through December 31, 1981, and January 1 through June 30, 1982.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW, Washington, D.C.20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5235 Filed 2-25-82; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-2-74	Airspur, Inc	Mar. 4, 1982.
82-2-81	Eagle Commuter Airlines, Inc	Mar. 8, 1982.
82-2-84	Aerosun International, Inc	Mar. 9, 1982.
82-2-101	Thunderbird Aviation, Inc. and Thunderbird Aircraft Co.	Mar. 11, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 82-2-74, 82-2-84 and 82-2-101 with the Special Authorities Division, Room 915; for Order 82-2-81 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT:

For Orders 82-2-74 and 82-2-84: Ms. Patti Szrom, (202) 673-5088; for Order 82-2-81, Mr. Patrick V. Murphy, (202) 673-35408; and for Order 82-2-101, Mr. John McCamant, (202) 673-5082, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5085 Filed 2-25-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 8-82]

Foreign-Trade Zone 57, Mecklenburg County, North Carolina; Application for Expansion

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the North Carolina Department of Commerce (NCDC), a State public agency and grantee of Foreign-Trade Zone 57 in the Charlotte Customs port of entry area, requesting authority to expand the zone to include an industrial park site. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 18, 1982. The applicant is authorized to make this proposal under Chapter 55–C of the General Statutues of North Carolina.

On April 28, 1980, NCDC received authority from the Board to establish a foreign-trade zone project at two sites in the Charlotte area (Board Order 156, 45 FR 30466, 5–8–80). Site I is a 100,000 square foot warehouse at 11425 Granite Street in Mecklenburg County. Site II involves a nearby 123,000 square foot warehouse at 14620 Carowinds Boulevard, also in Mecklenburg County. The project became operational in June 1980, and in its first full fiscal year of operation (F.Y. 1981), it served 36 firms and received some $500,000 in merchandise. Projections for the current fiscal year indicate the zone will serve 100 firms and receive a million dollars in merchandise. Zone operations are currently limited to warehousing, distribution, and light processing operations.

Based on a growing demand for zone space by firms requiring separate facilities for manufacturing and processing, the applicant requests zone status for an industrial park site covering 85 acres within the Arrowood industrial development project on Carowinds Boulevard at the intersection of Route 49 in Mecklenburg County (Site III). This facility will provide space for operations which cannot be accommodated at Sites I and II, and standby space for future zone development. Distribution Technology, Inc., which operates Sites I and II, will also operate the proposed site as an integral part of the overall zone project.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Charles W. Winwood, Director (Inspection and Control), U.S. Customs Service, Region IV, 99 S.E. 5th Street, Miami, Florida 33131; and Colonel Robert A. Hughes, District Engineer, U.S. Army Engineer District, Wilmington, P.O. Box 1890, Wilmington, North Carolina 29402.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 31, 1982.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 3224 Piper Lane, P.O. Box 27085, Charlotte, North Carolina 28219

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 3721, Washington, D.C. 20230

Dated: February 23, 1982.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 82-5264 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Bigelow Laboratory for Ocean Science; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 81–00317. Applicant: Bigelow Laboratory for Ocean Science, McKnown Point, West Boothbay Harbor, Maine 04575. Article: Multi-channel Flow Colorimeter with Accessories. Manufacturer: ChemLab Instruments, Ltd., United Kingdom. Intended use of article: See Notice on page 42895 in the **Federal Register** of August 25, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a multi-channel colorimeter with a high intensity light source (quartz halogen) and a wavelength range of 540–820 nanometers. The National Bureau of Standards advises in its memorandum dated December 9, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5257 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Jet Propulsion Laboratory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 81–00275. Applicant: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, California 91103. Article: Millimeter Wavelength Carcinotron, CO 10.1/F–4178.

Manufacturer: Thomson CSF, France. Intended use of article: See Notice on page 41543 in the **Federal Register** of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a frequency range of 270–290 gigahertz. The National Bureau of Standards advises in its memorandum dated December 11, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5248 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81–00282. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Neutral Beam Atom Source with Accessories. Manufacturer: Ion Tech., Ltd., United Kingdom. Intended use of article: See Notice on page 41544 in the **Federal Register** of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article generates neutral argon atoms of sufficient energy for mass spectrometry. The Department of Health and Human Services advises in its memorandum dated November 10, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientic value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5247 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Michigan Technological University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81–00310. Applicant: Michigan Technological University, Department of Metallurgical Engineering, Houghton, MI 49931. Article: Jung Ultra-Milling Device for Non-ferrous Materials complete with Accessories. Manufacturer: Jung, West Germany. Intended use of article: See Notice on page 42895 in the **Federal Register** of August 25, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is capable of producing metal and metal alloy specimens with a surface roughness of less than 0.1 μm. The National Bureau of Standards advises in its memorandum dated December 14, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 82-5256 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Smithsonian Institution; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81–00321. Applicant: Smithsonian Institution, Department of Anthropology, National Museum of Natural History, Mail Stop 112, Washington, D.C. 20560. Article: Electromagnetic Terrain Conductivity Meter, EM 31 with Spare Parts Kit. Manufacturer: Geonics Limited, Canada. Intended use of article: See Notice on page 43729 in the **Federal Register** of August 31, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for

such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides resistivity mapping (variations of soil resistivity, either laterally or with depth). The National Bureau of Standards advises in its memorandum dated December 29, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no comparable domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5261 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Solar Energy Research Institute; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00260. Applicant: Solar Energy Research Institute, 1617 Cole Blvd., Golden, CO 80401. Article: Program Pico Ampmeter with Accessories. Manufacturer: Hewlett Packard, Japan. Intended use of article: See Notice on page 40247 in the Federal Register of August 7, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides measurement of dark current as a function of temperature and quasi-static capacitance/voltage. The National Bureau of Standards advises in its memorandum dated December 4, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument, apparatus or combination of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5250 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

SRI International; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81-00295. Applicant: SRI International, Atmospheric Science Center, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: HF/DF Laser, Model TE 270 with Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: See Notice on page 42092 in the Federal Register of August 19, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has an energy output of at least 0.7 joule at wavelengths of 2.6-2.8 millimicrons (μm) (HF) and 3.5-4 μm (DF). The National Bureau of Standards advises in its memorandum dated December 30, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5255 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81-00345. Applicant: University of California, San Diego, Department of Biology, C-016, La Jolla, CA 92093. Article: Voltage-clamp Unit. Manufacturer: Jens Meyers, West Germany. Intended use of article: See Notice on page 45974 in the Federal Register of September 16, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes at this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article, a specialized clamp for use with microelectrodes, provides a short time constant of 12 microseconds and a high input impedance of 10^{12} ohms. The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capabilities of the foreign article described above are pertinent to the

applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5260 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

The University of Chicago; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00268. Applicant: The University of Chicago, 5540 S. Ellis Avenue, Chicago, IL 60637. Article: Electron Impact Ionization Source for a Mass Spectrometer. Manufacturer: Swiss Federal Institute of Technology, Switzerland. Intended Use of Article: See Notice on page 41125 in the Federal Register of August 14, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is capable of high sensitivity (1×10^{-3} A/torr, Ar) at low emission (250 μ A). The National Bureau of Standards advises in its memorandum dated December 29, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5253 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Colorado; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00085. Applicant: University of Colorado, Joint Institute for Laboratory Astrophysics,. Boulder, Colorado 80309. Article: Excimer Laser-Pumped Dye Laser System, EMG 102. Manufacturer: Lambda Physik GmbH & Co., KG, West Germany. Intended use of article: See Notice on page 31465 in the Federal Register of June 16, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manmufactured in the United States, at the time U.S. Customs received this application (December 15, 1980).

Reasons: The foreign article provides a high repetition rate of 100 pulses per second. The National Bureau of Standards advises in its memorandum dated September 10, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time Customs received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5245 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Colorado; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 80-00121. Applicant: University of Colorado, Purchasing Department, Health Sciences Center, 4200 E. 9th Avenue, Denver, Colorado 80262. Article: Helium Dewar, Model MGD-203. Manufacturer: CTF Systems, Inc., Canada. Intended Use of Article: See Notice on page 15247 in the Federal Register of March 10, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article offers a helium capacity of three liters, 84 hours minimum hold time, helium evaporation rate of not more than one liter/day, experimental space of 45±5 millimeters (mm), a unit height not to exceed 750mm and low noise insulation and walls so that no magnetic Johnson noise eddy-current induced fields can be observed with state or art SQUIB gradiometer (at the levels of 10^{-14} T $\sqrt{\text{Hz}}$ in the frequency range of 1 Hz to $\sqrt{}$ 100 Hertz). The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or

apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5254 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00326. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, Illinois 61801. Article: Virtual Objective Aperture for Model HB5 Electron Microscope. Manufacturer: VG Microscopes Ltd., United Kingdom. Intended Use of Article: See Notice on page 43729 in the **Federal Register** of August 31, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5244 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

The University of Iowa; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00337. Applicant: The University of Iowa, Hospitals and Clinics, Newton Road, Iowa City, Iowa 52252. Article: Single-Photon Emission Tomography System with Accessories. Manufacturer: Medimatic A/S, Denmark. Intended Use of Article: See Notice on page 45791 in the **Federal Register** of September 15, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article displays regional cerebral blood flow using a non-invasive radioactive tracer technique. The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5258 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Kansas; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00343. Applicant: University of Kansas, College of Health Sciences, 39th and Rainbow, Kansas City, KS 66103. Article: Automatic Recording Spectropolarimeter, Model J500-A. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended Use of Article: See Notice on page 45974 in the **Federal Register** of September 16, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has the capability of providing circular dichroism spectra and rapid switching between right and left polarized light to 50,000 times per second. The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5259 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Texas Health Science Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89 651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00226. Applicant: The University of Texas Health Science Center at Dallas, purchasing Department, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: Electrophysiological Stereotaxic Equipment with Accessories. Manufacturer: AB Transvertex, Sweden. Intended use of article: See Notice on page 35327 in the **Federal Register** of July 8, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a manipulator frame specifically designed for study of the feline spinal cord. The Department of Health and Human Service advises in its memorandum dated October 21, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5251 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Stanford University; Decision on Application for Duty-free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00263. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94305. Article: Self Boring Pressuremeter, Mark 8. Manufacturer: Cambridge Institute, United Kingdom. Intended Use of Article: See Notice on page 40247 in the **Federal Register** of August 7, 1981.

Comments: No comments have have received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides on site measurements of soil in three directions to 2,800 kilonewtons per square millimeter. The National Bureau of Standards advises in its memorandum dated December 2, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus, used singly or in combination, of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5263 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00197. Applicant: University of Wisconsin, 1415 W. Johnson Drive, Department of Chemical Engineering, Madison, WI 53706. Article: Small-angle X-ray Camera System. Manufacturer: Anton Paar KG, Austria. Intended use of article: See Notice on page 31464 in the **Federal Register** of June 16, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a small-angle camera system able to accept a position sensitive detector and having the capability to study extremely small samples in air (10-1000 Angstroms). The National Institutes of Health and National Bureau of Standards advise in their memoranda dated July 23, 1981 and December 28, 1981, respectively, that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5262 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00291. Applicant: University of Wisconsin, Chemical Engineering Department, 1415 Johnson Drive, Madison, WI 53706. Article: Rotating Anode X-Ray Generator System GX-21. Manufacturer: Marconi Avionics Ltd., United Kingdom. Intended use of article: See Notice on page 41545 in the **Federal Register** of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size (0.1xmm) and a rotating target for maximum X-ray beam intensity. The Department of Health and Human Services advises in its memorandum dated November 10, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5246 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00161. Applicant: University of Wisconsin, Nuclear Engineering Department, 1500 Johnson Drive, 205 Engineering Research Building, Madison, WI 53706. Article: Spectrum Analyzer, Model W1745. Manufactuer: MESL-RACAL, Ltd., United Kingdom. Intended use of article: See Notice on page 22631 in the **Federal Register** of April 20, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a resolution of 50 kilohertz at input frequencies of 0-6 megahertz. The National Bureau of Standards advises in its memorandum dated January 22, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5252 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin-Madison; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00278. Applicant: University of Wisconsin-Madison, Plasma Physics, 1150 University Avenue, Madison, WI 53706. Article: 140 GHz Klystron, Model VRT 2121A. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: See Notice on page 41544 in the **Federal Register** of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides high frequencies (CF = 140 GHz) permitting measurement of plasma densities to 2.0×10^{14} cm^{-3}. The National Bureau of Standards advises in its memorandum dated December 14, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5249 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Subcommittee on Export Administration of the President's Export Council; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Thursday, March 25, 1982.

The Subcommittee on Export Administration was initially established on June 1, 1976. Executive Order 12258 of December 31, 1980, continued the Subcommittee until December 31, 1982.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979 that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

TIME AND PLACE: The meeting will take place at 1:30 p.m., March 25, 1982, at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C.

AGENDA: Executive Session. Discussion of matters properly classified under Executive Order 12065, dealing with U.S. and COCOM export control program developments and their related strategic criteria.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 8, 1982, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Exective Session will be concerned with matters listed in 5 U.S.C. 522b(c)(1) and properly classified under Executive Order 12065.

A copy of the Notice of Determination to close the Subcommittee's meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: (202) 377-4217.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Kappler, Office of the Assistant Secretary for Trade Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-1455) or Mr. Jeffrey Jackson, President's Export Council, Room 1215 (202/377-1125).

Dated: February 22, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-5167 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Metric System of Measurement; Interpretation and Modification of the International System of Units for the United States

Section 3 of Pub. L. 94-168, the Metric Conversion Act of 1975, declares that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States. Section 403 of Pub. L. 93-380, the Education Amendments of 1974, states the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement as part of the regular education program. Under both these acts, the "metric system of measurement" is defined as the International System of Units as established by the General Conference on Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce (sec. 4(4), Pub. L. 94-168; sec. 403(a)(3), Pub. L. 93-380). The Secretary has delegated his authority under these subsections to the Director of the National Bureau of Standards.

In implementation of this authority, tables and associated materials were published in the **Federal Register** of October 26, 1977 (42 FR 56513-56514), setting forth the interpretation and modification of the International System of Units (hereinafter "SI") for the United States.

In accordance with recent decisions of the International Committee for Weights and Measures of the General Conference on Weights and Measures, and to refine the earlier interpretation and modification, it is deemed appropriate to amend that interpretation and modification, as published in the above-cited **Federal Register** notice of October 26, 1977. To assist interested parties and encourage the proper use of SI, the entire interpretation and modification, as hereby amended, is republished. Accordingly, this notice supersedes the notice of October 26, 1977.

The amendments consist of the inclusion in table 2 of the sievert, a special name for the SI derived unit of dose equivalent, the inclusion in table 6 of the electronvolt and the unified atomic mass unit, and the inclusion in table 7 of the rem, a unit of dose equivalent. The unit "standard atmosphere" is no longer included in table 7. The amendments are indicated by a dagger symbol (†).

The SI is constructed from seven base units for independent quantities plus two supplementary units for plane angle and solid angle, listed in table 1.

TABLE 1.—SI BASE AND SUPPLEMENTARY UNITS

Quantity	Name	Symbol
SI base units:		
length	meter	m
mass [1]	kilogram	kg
time	second	s
electric current	ampere	A
thermodynamic temperature	kelvin	K
amount of substance	mole	mol
luminous intensity	candela	cd
SI supplementary units:		
plane angle	radian	rad
solid angle	steradian	sr

[1] "Weight" in common parlance is often used to mean "mass."

Units for all other quantities are derived from these nine units. In table 2 are listed 19 SI derived units with special names which were derived from the base and supplementary units in a coherent manner, which means, in brief, that they are expressed as products and quotients of the nine base and supplementary units without numerical factors.

TABLE 2.—SI DERIVED UNITS WITH SPECIAL NAMES

Quantity	SI unit		
	Name	Symbol	Expression in terms of other units
frequency	hertz	Hz	s^{-1}
force	newton	N	$kg\text{-}m/s^2$
pressure, stress	pascal	Pa	N/m^2
energy, work, quantity of heat	joule	J	N-m
power, radiant flux	watt	W	J/s
electric charge, quantity of electricity	coulomb	C	A-s
electric potential, potential difference, electromotive force	volt	V	W/A
capacitance	farad	F	C/V
electric resistance	ohm	Ω	V/A
conductance	siemens	S	A/V

TABLE 2.—SI DERIVED UNITS WITH SPECIAL NAMES—Continued

Quantity	SI unit		
	Name	Symbol	Expression in terms of other units
magnetic flux	weber	Wb	V·I
magnetic flux density	telsa	T	Wb/m^2
inductance	henry	H	Wb/A
luminous flux	lumen	lm	cd/sr
illuminance	lux	lx	lm/m^2
Celsius temperature[1]	degree Celsius.	°C	K
activity (of a radionuclide).	becquerel	Bq	s^{-1}
absorbed dose, specific energy imparted, kerma, absorbed dose index.	gray	Gy	J/kg
†dose equivalent, dose equivalent index.	sievert	Sv	J/kg

[1] In addition to the thermodynamic temperature (symbol T) expressed in kelvins (see table 1), use is also made of Celsius temperature (symbol t) defined by the equation $t = T - T_0$ where $T_0 = 273.15$ K by definition. The unit "degree Celsius" is equal to the unit "kelvin," but "degree Celsius" is a special name in place of "kelvin" for expressing Celsius temperature. A temperature interval or a Celsius temperature difference can be expressed in degrees Celsius as well as in kelvins.

All other SI derived units, such as those in tables 3 and 4, are similarly derived in a coherent manner from the 28 base, supplementary, and special-name SI units.

TABLE 3.—EXAMPLES OF SI DERIVED UNITS EXPRESSED IN TERMS OF BASE UNITS

Quantity	SI unit	Unit symbol
area	square meter	m^2
volume	cubic meter	m^3
speed, velocity	meter per second	m/s
acceleration	meter per second squared.	m/s^2
wave number	1 per meter	m^{-1}
density, mass density	kilogram per cubic meter.	kg/m^3
specific volume	cubic meter per kilogram.	m^3/kg
current density	ampere per square meter.	A/m^2
magnetic field strength	ampere per meter	A/m
concentration (of amount of substance).	mole per cubic meter	mol/m^3
luminance	candela per square meter.	cd/m^2

TABLE 4.—EXAMPLES OF SI DERIVED UNITS EXPRESSED BY MEANS OF SPECIAL NAMES

Quantity	Name	Unit symbol
dynamic viscosity	pascal second	Pa·s
moment of force	newton meter	N·m
surface tension	newton per meter	N/m
heat flux density, irradiance.	watt per square meter.	W/m^2
heat capacity, entropy.	joule per kelvin	J/K
specific heat capacity, specific entropy.	joule per kilogram kelvin.	J/(kg·K)
specific energy	joule per kilogram	J/kg
thermal conductivity	watt per meter kelvin	W/(m·K)
energy density	joule per cubic meter	J/m^3
electric field strength	volt per meter	V/m
electric charge density.	coulomb per cubic meter.	C/m^3
electric flux density	coulomb per square meter.	C/m^2

TABLE 4.—EXAMPLES OF SI DERIVED UNITS EXPRESSED BY MEANS OF SPECIAL NAMES—Continued

Quantity	Name	Unit symbol
permittivity	farad per meter	F/m
permeability	henry per meter	H/m
molar energy	joule per mole	J/mol
molar entropy, molar heat capacity.	joule per mole kelvin	J/(mol·K)
exposure (x and γ rays).	coulomb per kilogram	C/kg
absorbed dose rate	gray per second	Gy/s

For use with the SI units there is a set of 16 prefixes (see table 5) to form multiples and submultiples of these units. It is important to note that the kilogram is the only SI unit with a prefix. Because double prefixes are not to be used, the prefixes of table 5, in the case of mass, are to be used with gram (symbol g) and not with kilogram (symbol kg).

TABLE 5.—SI PREFIXES

Factor	Prefix	Symbol
10^{18}	exa	E
10^{15}	peta	P
10^{12}	tera	T
10^{9}	giga	G
10^{6}	mega	M
10^{3}	kilo	k
10^{2}	hecto	h
10^{1}	deka	da
10^{-1}	deci	d
10^{-2}	centi	c
10^{-3}	milli	m
10^{-6}	micro	μ
10^{-9}	nano	n
10^{-12}	pico	p
10^{-15}	femto	f
10^{-18}	atto	a

Certain units that are not part of the SI are used so widely that it is impractical to abandon them. The units that are accepted for continued use in the United States with the International System are listed in table 6.

TABLE 6.—UNITS IN USE WITH THE INTERNATIONAL SYSTEM

Name	Symbol	Value in SI unit
minute (time)	min	1 min = 60 s
hour	h	1 h = 60 min = 3 600 s
day	d	1 d = 24 h = 86 400 s
degree (angle)	°	1° = (π/180) rad
minute (angle)	′	1′ = (1/60)° = (π/10 800) rad
second (angle)	″	1″ = (1/60)′ = (π/648 000) rad
liter	L*	1 L = 1 $dm^3 = 10^{-3}$ m^3
metric ton	t	1 t = 10^3 kg
hectare (land area)	ha	1 ha = 10^4 m^2
†electronvolt	eV	1 eV = 1.602 × 10^{-19} J, approximately**
†unified atomic mass unit.	u	1 u = 1.660 57 × 10^{-27} kg, approximately**

* Both L and l are international symbols for liter. Because "l" can easily be confused with the numeral "1" the symbol "L" is recommended for United States use.
** The values of these units in terms of SI units are obtained experimentally.

In those cases where their usage is already well established, the use, for a limited time, of the units in table 7 is accepted, subject to future review.

TABLE 7.—UNITS IN USE TEMPORARILY WITH THE INTERNATIONAL SYSTEM

nautical mile	angstrom	curie
knot	barn	roentgen
	bar	rad [2]
	gal [1]	†rem [3]

[1] Unit of acceleration.
[2] Unit of absorbed dose.
[3] Unit of dose equivalent.

Metric units, symbols, and terms that are not in accordance with the foregoing Interpretation and Modification are no longer accepted for continued use in the United States with the International System of Units. Accordingly, the following units and terms listed in the table of metric units in section 2 of the Act of July 28, 1866 that legalized the metric system of weights and measures in the United States are no longer accepted for use in the United States:

myriameter
stere
millier or tonneau
quintal
myriagram
kilo (for kilogram)

For more information regarding the International System of Units, contact Dr. David T. Goldman, National Measurement Laboratory, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234, telephone (301) 921–3304.

Dated: February 2, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-5150 Filed 2-25-82; 8:45 am]
BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Control Levels for Certain Cotton Textile Products from Haiti

February 25, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of Men's and Boy's Woven Cotton Shirts and Cotton Trousers in Categories 340 and 347/348, produced or manufactured in Haiti and exported during the agreement year which began on May 1, 1981, at respective levels of 112,500 dozen and 258,427 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal**

Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979, as amended, between the Governments of the United States and Haiti, the United States has decided to control imports of cotton textile products in Categories 340 and 347/348 in the same manner as other categories are currently being controlled.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Carl J. Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On May 1, 1981, there was published in the Federal Register (46 FR 24617) a letter dated April 28, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption during the twelve-month period which began on May 1, 1981 and extends through April 30, 1982. The letter published below amends the letter of April 28, 1981 to include import control levels of 112,500 dozen for Category 340 and 258,427 dozen for Category 347/348. The newly-established levels have not been adjusted to account for any imports after April 30, 1981. Imports during the May-December 1981 period have totaled 54,064 dozen for Category 340 and 160,087 dozen for Category 347/348 and will be charged. When the data become available, charges will also be made for the period which began January 1, 1982 and extends to the effective date of this action.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on April 28, 1981, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber twelve-month period which began on May 1, 1981.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979, as amended, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on March 1, 1982 and for the twelve-month period beginning on May 1, 1981 and extending through April 30, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 340 and 347/348, produced or manufactured in Haiti, in excess of the following levels of restraint:

Category	12-mo. level of restraint[1]
340	112,500 dozen.
347 and 348	258,427 dozen.

[1] The levels of restraint have not been adjusted to account for any imports after April 30, 1981. Imports in Category 340 during the May-December 1981 period have amounted to 54,064 dozen; imports in Category 347/348 during the same period amounted to 160,087 dozen.

Textile products in Categories 340 and 347/348 which have been exported to the United States prior to May 1, 1981 shall not be subject to this directive.

Textile products in Categories 340 and 347/348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-5458 Filed 2-25-82; 10:27 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Tuesday, 6 April 1982, the Pentagon, Washington, D.C.

Wednesday, 7 April 1982, Plaza West, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the REIS program.

Dated: February 23, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 82-5274 Filed 2-25-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Mapping, Charting and Geodesy: Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Mapping, Charting and Geodesy (MC&G) will meet in closed session on 29–30 March 1982 at Fort Belvoir, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 29–30 March 1982 the Defense Science Board Task Force on MC&G will review the Defense Department's plans and programs concerning generation, derivation, collection and transmission of MC&G data which is critical to the guidance of cruise missiles and other future weapons systems.

In accordance with 5 U.S.C. App. 1 10(d) (1976), it has been determined that

this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: February 23, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-5275 Filed 2-25-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Multiprogram Lab Panel Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Multiprogram Lab Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: March 11-12, 1982, 9 a.m. to 5 p.m.

Place: Department of Energy, Forrestal Builing, Room 4A-110, 1000 Independence Avenue, SW., Washington, D.C. 20585

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202/252-8933

Purpose of the parent board: To advise the Depeartment of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda: Discussion of draft report of Multiprogram Lab Panel.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedon of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 22, 1982.

J. Ronald Young,

Director, Office of Management, Office of Energy Research.

[FR Doc. 82-5125 Filed 2-25-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2059-5]

Availability of Environmental Impact Statements Filed February 15 Through 19, 1982

Responsible Agency: Office of Federal Activities, Ms. Kathi Wilson (202) 245-3006.

Corps of Engineers: EIS# 820084, Final, COE, MI, Monroe Harbor Diked Disposal Area Construction/Operation, Monroe Co., due: March 29, 1982.

Department of Interior: EIS# 820086, Final, BLM, AK, Norton Sond OCS Oil and Gas Lease Sale #57, Anchorage, due: March 29, 1982.

Department of Transportation:

EIS# 820080, Draft, FHW, TX, I-20 Widening, TX-183 to I-35W, Fort Worth, Tarrant County, due: April 12, 1982.

EIS# 820083, Draft, FHW, ID, ID-55 Upgrading, McCall to New Meadows, Valley and Adams Counties, due: April 12, 1982.

EIS# 820088, Draft, FHW, OR, McLoughlin Boulevard Widening, Union-Grand Viaduct to SE River Road, due: April 12, 1982.

EIS# 820091, Final, FHW, VT, US 7 Construction, Allen Road to I-189, Chittenden County, due: March 29, 1982.

Environmental Protection Agency:

EIS# 820092, Draft, EPA, NM, Las Cruces Wastewater Treatment Facilities, Grant, Dona Ana County, due: April 12, 1982.

EIS# 820081, Revised, EPA, CA, San Francisco Channel Bar Dredged Material Disposal Site Designation, due: April 12, 1982.

EIS# 820085, Final, EPA, FL, Hardee County Phosphate Mine, NPDES Permit, Hardee County, due: March 29, 1982.

Department of Agriculture: EIS# 820082, Final, AFS, SEV, CA, NV, Lake Tahoe Basin Land Acquisition Plan, due: March 29, 1982.

Department of Energy: EIS# 820089, Draft, DOE, MA, Salem Harbor Generating Station Units 1, 2 and 3, Conversion to Coal, due: April 12, 1982.

General Services Administration: EIS# 820087, Final, GSA, DC, Ten Year Space Acquisition Program, due: March 29, 1982.

Nuclear Regulatory Commission: EIS# 820090, Draft, NRC, MD, National Bureau of Standards Reactor, License Renewal/Power Increase, due: April 12, 1982.

Amended Notice: EIS# 820063, *Final, SCS, PR, Guayanes River Watershed Multipurpose Project Municipality of Yabucoa, due: *March 22, 1982.

Date: February 23, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-5276 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-2059-5]

Intent To Prepare a Supplemental Environmental Impact Statement (EIS)

AGENCY: Environmental Protection Agency, Region 4, Atlanta.

CONTACT: Ms. Jean A. Tolman, Environmental Impact Statement Section, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30365, telephone (404) 881-7458 (Commercial), 8-257-7458 (FTS).

SUMMARY: The U.S. EPA, Region 4 has determined that a Supplement to the FINAL EIS is required before taking action on an application for an NPDES permit for Estech General Chemicals Corporation's proposed phosphate mine in Manatee County, Florida. A detailed Notice has been issued by Region 4 and is available upon request. Estech proposes to construct and operate an open pit phosphate mine, beneficiation plant and rock dryer on a 10,394 acre site. Since issuance of the Final EIS, the State of Florida has reclassified the Manatee River at and below the discharge point form Class III to Class I Standards. In order to meet the more stringent standards, changes to the water quality management plan are being proposed as well as changes in Estech's proposed project.

The Draft Supplmental EIS is tentatively scheduled for issuance by June 1982 and will be circulated to all recipients of the Final EIS. Additional interested parties should contact Ms. Tolman to be included on the distribution list.

Dated: February 23, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-5276 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-37-M

*Incorrect status and due date published FR February 19, 1982.

[TSH-FRL-2058-5]

Administrator's Toxic Substances Advisory Committee; Notice of Renewal

The U.S. Environmental Protection Agency announces the renewal of the Administrator's Toxic Substances Advisory Committee. It has been determined that renewal of this advisory committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the Administrator's Toxic Substances Advisory Committee through December 31, 1982, has been filed at the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-755-0866.

Dated: February 5, 1982.

John P. Horton.

Assistant Administrator for Administration.

[FR Doc. 82-5266 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80-286]

Agenda Set for Next Federal-State Joint Board Meeting

February 12, 1982.

The Federal-State Joint Board in this proceeding will hold its next meeting on February 24, 1982, at 2:30 p.m. in Room 856, 1919 M Street, NW., Washington, D.C. At that time, the Board will consider adoption of the following Joint Board staff reports and recommendations:

1. A Joint Board staff report on the February 2, 1982 meeting held between staff members and industry representatives in Arlington, Texas to discuss alternative mechanisms for allocating telephone companies' nontraffic sensitive exchange plant between jurisdictions, and access charges as they relate to jurisdictional separations.

2. Joint Board staff recommendations concerning:

a. An amendment to the Board's plan for phase out of the interstate revenue requirement for customer-premises equipment (CPE) which would permit States to freeze embedded CPE levels on a date prior to January 1, 1983;

b. *Ex parte* rules to govern Joint Board proceedings;

c. Scheduling of regional hearings to gather additional information concerning alternatives for allocating nontraffic sensitive exchange plant between jurisdictions; and

d. A timetable for completion of action on all remaining issues before the Board in this proceeding.

For additional information contact James W. McConnaughey of the Common Carrier Bureau at (202) 632-9342.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5135 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-96]

Closed Circuit Test of the Emergency Broadcast System

February 19, 1982.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of March 1, 1982. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This Is a Closed Circuit Test and Will Not Be Broadcast Over the Air

Action by the Commission February 18, 1982. Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

William J. Tricarico,

Secretary.

[FR Doc. 82-5168 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

Proposals Invited for New AM Stations on Canadian Clear Channels and Applications on U.S. Clear Channels Suspended

Canada has indicated its intention to file, shortly, formal notification of its withdrawal from the North American Regional Broadcasting Agreement (NARBA). Bi-lateral discussions have commenced for the purpose of drawing up U.S.-Canadian understandings as to the principles, standards and procedures which will govern the mutual protection of each other's AM broadcast service under agreed adaptations of the general hemisphere-wide provisions of the Final Acts of the recently concluded Administrative Conference at Rio de Janeiro on Medium Frequency (AM) Broadcasting in Region 2.

As a result of post-NARBA considerations, it is expected that the basis of interference protection on the 25 Class I-A frequencies on which NARBA accorded priority to the United States and the 7 others on which Canada has had priority will be discontinued. Consistently with the Rio Final Acts, to which both the United States and Canada are signatories, it may be expected that post-NARBA protection on the above noted channels will be to designated service contours. Although wide service areas of the dominant Class I-A stations will continue to be protected, the new scheme will make it possible for both countries to add new unlimited-time stations to each others' clear channels.

Negotiations being conducted with Canada to develop the details of a post-NARBA bilateral agreement are being impeded by two circumstances which the Commission seeks to remedy in the actions announced in this Public Notice. Because of severe NARBA restrictions on the use, within the United States of the Canadian clear channels (540, 690, 740, 860, 990, 1010 and 1580 kHz), the FCC Rules have not permitted the submission of applications which would indicate U.S. demand for additional unlimited-time AM stations on these channels. Canada has announced its proposed use of the foregoing channels for new and existing stations. In order to obtain needed information concerning U.S. needs for stations on these channels, persons interested in seeking station assignments on them are invited to submit, no later than April 15, 1982, statements of intention to file such applications when that becomes possible under rule amendments which will be introduced later to effectuate such post-NARBA agreements as will be arrived at with Canada. The statements of intention should be accompanied by the information called for in Questions No. 2, 3, and 10 of Section V-A of FCC Form No. 301, and should be addressed to FCC Headquarters, 1919 M Street, N.W., Washington, D.C. 20554, Attention: Technical and International

Branch, Policy and Rules Division, Broadcast Bureau.

Negotiations toward the resolution of any conflicts among proposed assignments on the Canadian clear channels will not be concluded until after the Commission has received the statements of intention we are now inviting interested persons to file. Thus, due account may be taken of indicated needs on the U.S., as well as the Canadian, side of the border. It should, of course, be recognized that in negotiating the acceptance of specific new assignments, due regard will be given to the protection of pre-existing stations, wherever located, in conformance with requirements of the Rio Final Acts.

Under the separate U.S. agreement with Mexico, recognition is given also to a Mexican priority in the use of Class I–A channel 540 kHz. In practice this restriction, coupled with conditions imposed under NARBA, leaves very little room for U.S. nighttime use of 540 kHz. While bilateral negotiations with Mexico have not yet been held since the Rio conference, it is anticipated that negotiations with Mexico may possibly lead to some modification of the protection which Mexico and the United States now afford to each other. While the outcome of future negotiations cannot be presumed, it would appear to be useful for persons responding to this call for proposals supported by basic engineering to note that Mexico has a station at San Luis Potosi on 540 kHz, and that proposals for possible future use of this frequency at night should protect this station in the manner required by the Rio Final Acts. Protection must be given also to Mexican stations on the other clear channel frequencies.

A different circumstance is impeding negotiations which have been commenced with Canada on the resolution of conflicts in the proposed use, on both sides of the border, of spectrum space available for new unlimited-time stations on the twenty-five U.S. clear channels: 640, 650, 660, 670, 700, 720, 750, 760, 770, 780, 820, 830, 840, 870, 880, 890, 1020, 1030, 1040, 1100, 1120, 1160, 1180, 1200 and 1210 kHz. There has been ample opportunity, since the Commission opened these channels up to additional unlimited-time assignments in May, 1980, for interested persons to file over three hundred applications for such assignments. Negotiations on the resolution of conflicts between these proposals and stations proposed to be assigned by Canada on these twenty-five frequencies cannot proceed satisfactorily as long as additional applications continue to alter the interference calculations affecting preceding proposals. The Commission has therefore found it necessary to suspend, at this stage, the filing of additional applications for stations on the foregoing twenty-five clear channels. Accordingly, no applications for AM facilities on the above listed U.S. Class I–A clear channels will be accepted after five working days from the date of the publication of this Notice in the Federal Register, with the exception of applications for construction permits which are mutually exclusive with applictions for license renewal, and mutually exclusive applications which are timely filed in response to Public Notice of cut-off issued pursuant to § 73.571 of the Commission's rules. The filing of applications on the twenty-five U.S. clear channels will be permitted to be resumed after agreement has been reached with Canada on the assignment of new unlimited-time stations on these channels and the above-listed Canadian clear channels.

It is recognized that problems may arise from the filing of applications on channels adjacent to the U.S. and Canadian clear channels. However, there does not appear to be a likelihood of general difficulty serious enough to justify suspending the filing of applications on the adjacent channels. In processing such applications, attention will be given to the possibility of their conflict with assignments under negotiation for new stations on the clear channels. Those involving conflicts which cannot be accepted for filing, will be returned. They may be refiled after a bilateral agreement on the use of the clear channels has been concluded, provided all protection requirements which have been agreed upon are met. Separately, the Commission will release a list of the assignments which Canada proposes to add to the U.S. and Canadian clear channels. For information concerning those proposals and other matters covered by this Public Notice contact Mr. Larry W. Olson, FCC headquarters, (202) 254–3394.

Action by the Commission February 23, 1982. Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Dawson and Rivera. Commissioner Jones concurring.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5279 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-11]

Johnson & Johnson International v. Ecuadorian Line, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Johnson & Johnson International against Ecuadorian Line, Inc. was served February 18, 1982. Complaint alleges that respondent has subjected it to payment of rates for ocean transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-5110 Filed 2-25-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BankEast Corp.; Proposed Acquisition of Portsmouth Trust Company

BankEast Corporation, Manchester, New Hampshire, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire 100 percent of the units of special deposit of Portsmouth Trust Company, Portsmouth, New Hampshire, through the merger of Portsmouth Trust Company into a currently inactive guaranty savings bank subsidiary of Applicant.

Applicant states that the resulting subsidiary would engage in the activities of a New Hampshire guaranty savings bank including the following: Accepting time and savings deposits, including NOW accounts; investing in residential and commercial mortgages; investing in U.S. government securities and other investments permitted by applicable laws; making secured and unsecured loans; providing safe deposit services; and servicing mortgages and

other loans. These activities would be performed from offices of Applicant's subsidiary in Portsmouth, New Hampshire, and the geographic area to be served is the Portsmouth-Dover-Rochester banking market.

Although the operation of a guaranty savings bank has not been specified by the Board in § 225.4(a) of Regulation Y as permissible generally for bank holding companies, the Board has, by orders, approved the acquisition of New Hampshire guaranty savings banks by New Hampshire bank holding companies, determing that the operation of these savings banks was closely related to banking in New Hampshire. *Profile Bankshares, Inc.*, 61 Federal Reserve Bulletin 901 (1975); *Heritage Banks, Inc.*, 66 Federal Reserve Bulletin 590 (1980); *First Financial Group of New Hampshire, Inc.*, 66 Federal Reserve Bulletin 594 (1980); *Heritage Banks, Inc.*, 66 Federal Reserve Bulletin 917 (1980); *BankEast Corporation*, 68 Federal Reserve Bulletin —— (January 28, 1982).

Interested persons may express their views on the question whether the proposed activity is so closely related to banking or managing or controlling banks as to be proper incident thereto. Interested persons may also express their view 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 either of these questions 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 Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 20, 1982.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5123 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Bowbells Holding Co.; Formation of Bank Holding Company

Bowbells Holding Company, Bowbells, 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 100 percent of the voting shares of The First National Bank of Bowbells, Bowbells, 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 March 19, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5122 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Bradley Bancshares, Inc.; Formation of Bank Holding Company

Bradley Bancshares, Inc., Warren, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank of Warren, Warren, Arkansas. 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5121 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Capital Bancorp; Acquisition of Bank

Capital Bancorp, North Bay Village, Florida, 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 65 per cent or more of the voting shares of First Bank of Oakland Park, Oakland Park, Florida. 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5120 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Cullen/Frost Bankers, Inc.; Acquisition of Bank

Cullen/Frost Bankers, Inc., San Antonio, Texas, 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 Chase National Bank, Austin, 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5119 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Dairy State Financial Services, Inc.; Formation of Bank Holding Company

Dairy State Financial Services, Inc., Plymouth, Wisconsin, 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 Dairy State Bank, Plymouth, 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 March 20, 1982. 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 questons 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5118 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Detroitbank Corp.; Acquisition of Bank

Detroitbank Corporation, Detroit, Michigan, 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 (less directors' qualifying shares) of The Detroit Bank-Grosse Pointe, National Association, Grosse Pointe, Michigan, a *de novo* bank. 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5117 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Exchange Bancshares, Inc.; Formation of Bank Holding Company

Exchange Bancshares, Inc., El Dorado, Arkansas, 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 the Exchange Bank and Trust Company, El Dorado, Arkansas. 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5115 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Goddard Financial Corp.; Formation of Bank Holding Company

Goddard Financial Corporation, Goddard, 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 88 per cent or more of the voting shares of Suburban West State Bank, Goddard, 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5113 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

International Bancorp.; Formation of Bank Holding Company

International Bancorp., Denver, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95 percent of the voting shares of International Bank, Denver, Colorado; 90 percent of the voting shares of Community Bank and Trust Company, Englewood, Colorado; 35 percent of the voting shares of Orchard Valley Bank, Englewood, Colorado; and 75 percent of the voting shares of Viejo Bank and Trust, Denver, Colorado, a proposed new bank. 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5114 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Ocheyedan Bancorporation; Formation of Bank Holding Company

Ocheyedan Bancorporation, Ocheyedan, Iowa, 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 Ocheyedan Savings Bank, Ocheyedan, Iowa. 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5116 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Republic of Texas Corp.; Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, 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 per cent of the voting shares of Republicbank Conroe, N.A., Conroe, 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 March 20, 1982. 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, February 19, 1982.

Theodore E. Dowing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5124 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Line of Business Program; Request for Comments

AGENCY: Fedeal Trade Commission.

ACTION: Request for Comments on Costs and Benefits of the Line of Business Program.

SUMMARY: The Commission will consider in the near future whether to collect Line of Business data for years subsequent to 1977. The Commission requests comments on the costs and benefits of the Line of Business Program for use in making its decision.

ADDRESS: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order to be considered, comments must be received no later than April 12, 1982. Twenty copies should be filed. If a comment contains any commercial or financial information that is privileged or confidential, within the meaning of section 6(f) of the amended Federal Trade Commission Act, 15 U.S.C.A. 46(f) (Sept. 1980 Supp.), it should be marked "confidential" on the first page, and the pages containing confidential information should be identified.

FOR FURTHER INFORMATION CONTACT: William F. Long, Manager, Line of Business Program, Bureau of Economics, (202) 254-8170.

SUPPLEMENTARY INFORMATION: Notices were published in the Fedral Register on August 24, and August 28, 1981 (46 FR 42768, 46 FR 43500), of a authorization by the Federal Trade Commission to publish aggregated data in the *Annual Line of Business Reports* for 1974 and 1975. Those reports were published in September 1981. Data for 1976 and 1977 have been collected from firms and are being processed, and the Commission anticipates the release of aggregated *Annual Line of Business Reports* for 1976 and 1977 in the near future. Staff of the Line of Business ("LB") Program have been conducting basic research with the underlying data. Preliminary results of some research have been released, and final results may be published by the Commission and by professional journals.

The Commission plans to consider in the near future whether to collect LB data for years subsequent to 1977. Before making any decision, the Commission intends to evaluate the costs and benefits of the LB Program. The Commission invites written comments on the costs and benefits of the LB Program.

To be most helpful, comments on costs or benefits should incorporate, where meaningful to the commenter, several specific considerations which are listed below. Comments on factors not listed are also welcome.

Cost Considerations

1. If data on actual compilation costs are being submitted, please note the years to which the data apply.

2. If data on actual or anticipated compilation costs are being submitted, certain detail, including the following, would be helpful:

—Whether the costs are start-up or continuing;

—A breakdown of costs by category, including labor costs;

—The extent to which report compilation is computerized;

—Differences between company information systems and LB reporting requirements that contribute most to costs. Such differences might relate to the LB industry categories, the specialization requirements, the range of date items reported, or the treatment of vertical integration;

—Major changes, short of eliminating the reporting requirement, which would reduce the cost, including an estimate of the cost reduction, if possible.

3. If data on indirect costs, including losses, are being submitted, it would be helpful to note:

—The activity that would generate the cost of loss;

—The nature of the cost or loss that would be incurred;

—The approximate amount of the cost or loss;

—The parties that would gain, if any.

Benefit Considerations

If actual or anticipated applications of LB data are being enumerated, certain detail, including the following, would be useful:

—Whether the application is applied analysis or basic research;

—Major objectives of the application, listing substantially different objectives separately;

—The industries to which the applications apply, with detailed descriptions being most helpful;

—The frequency of use;

—The data items used;

—Whether the applications include comparisons across industries for a

given year, or comparisons across years for a given industry,

—The importance of the currency of the data;

—The other data files used in such applications;

—The approximate value of th LB data relative to the amount expended for the other files;

—If data were to be collected and published for years subsequent to 1977, any changes that would improve the quality of the commenter's application, with an estimated value of the change where possible.

By direction of the Commission, dated February 12, 1982.

Carol M. Thomas

Secretary.

[FR Doc. 82-5232 Filed 2-25-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82N-0045]

Radiation Therapy Quality Assurance; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an open meeting to discuss quality assurance in radiation therapy and the draft recommendation developed by Task Force 24 of the American Association of Physicists in Medicine (AAPM).

DATES: The meeting will be held March 11 and 12, 1982, and will convene at 2 p.m. on March 11 and at 8:30 a.m. on March 12.

ADDRESSES: The meeting will be held at the Bureau of Radiological Health, Rm. 330, 1901 Chapman Ave., Rockville, MD 20857. The draft recommendation of AAPM Task Group 24 may be reviewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The report of the forthcoming meeting will be placed on public display as soon as it is available.

FOR FURTHER INFORMATION CONTACT: Robert J. Morton, Bureau of Radiological Health (HFX-75), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6180.

SUPPLEMENTARY INFORMATION: FDA's Bureau of Radiological Health (the Bureau) believes that quality assurance is of major importance in monitoring and maintaining the proper operation of radiation therapy equipment and in assuring prescribed dose delivery to the patient. The Bureau has been cooperating with various scientific and professional organzations in the development of recommendations for quality assurance in radiation therapy. At this meeting, the draft recommendation developed by Task Force 24 of the American Association of Physicists in Medicine Radiation Therapy Committee will be discussed. Interested persons planning to attend the meeting are asked to advise the contact person listed above.

Dated: February 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5129 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 79P-0031]

Standard Telephones and Cables, Ltd.; Approval of Amendment to Variance for an Infrared Illuminator

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that an amendment to a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for an infrared illuminator. The product is designed to illuminate a dark field of view with invisible infrared radiation that can be viewed with night vision equipment. Sales of the product are restricted to governmental, military, and law enforcement agencies.

DATE: The amended variance became effective January 20, 1982, and ends March 11, 1985.

ADDRESS: The application and all correspondence on the application are on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Denis L. McCarthy, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: ITT Components Group, Standard Telephones and Cables, Ltd., Paignton, Devon, England, United Kingdom TQ4-7BE (U.S. Agents: ITT Components Group, 1551 Osgood St., North Andover, MA 01845, and Joseph A. Cipolla, Technical Representative, 1899 L St. NW., Washington, D.C. 20036) have applied for an amendment to the variance from the laser products performance standard (21 CFR 1040.10 and 1040.11) that FDA previously granted under 21 CFR 1010.4 for the firm's infrared illuminator, models RT4A and RT5A (see 45 FR 30693; May 9, 1980). The petition requests addition to the variance of two new models, LM05 and LM10. The specific requirements of the standard to which the variance applies are the performance features of a remote control connector (§ 1040.10(f)(3)), key control (§ 1040.10(f)(4)), and an emission indicator (§ 1040(f)(5)(ii)).

By letter of January 20, 1982, the Director, Bureau of Radiological Health, approved the amended variance, which will terminate March 11, 1985. All models subject to the variance shall bear the variance number 79P-0031.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch (address above). This material may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 18, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5130 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Assistant Secretary for Health

Intent To Issue an Exclusive Patent License

Pursuant to 45 CFR, § 6.3 of the Department of Health and Human Services Patent Regulations and 41 CFR Part 101-4 of the Federal Procurement Regulations, notice is hereby given of an intent to issue to Westport Pharmaceuticals, Inc., of Westport, Connecticut, an exclusive license to manufacture, use, and sell an invention of Robert I. Henkin entitled "Diagnostic Device and Method of Treatment," United States Patent No. 3,852,432 issued December 3, 1974.

Copies of the above United States patent may be obtained upon written request to Mr. Leroy B. Randall, Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Room 5A03, Westwood Building, Bethesda, MD 20205.

The proposed license will have a duration of five (5) years from the date of first commercial sale in the United States of America, of eight (8) years from the date of the license, whichever occurs first, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with the Department of Health and Human Services (HHS) Patent Regulations. HHS will grant the license unless, within sixty (60) days of this Notice the Chief of the Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents.

A. A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

B. An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR Part 101–4 of the Federal Procurement Regulations, and 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR Part 101–4)

Dated: February 19, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82–5240 Filed 2–25–82; 8:45 am]

BILLING CODE 4160–17–M

National Institutes of Health

Ad Hoc Working Group on the Community Clinical Oncology Program; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Ad Hoc Working Group on Community Clinical Oncology Program, National Cancer Institute, March 4, 1982. The Committee will meet at the National Institutes of Health in Bethesda, Maryland in Building 31, Conference Room 11A10. The entire meeting will be open to the public from 6:30 p.m. to adjournment. This meeting will be concerned with discussion and review of Request for Applications (RFA) concerned with the Community Clinical Oncology Program. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Peter Greenwald, Director, Division of Resources, Centers, and Community Activities, National Cancer Institute, Building 31, Room 4A32, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6616) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting because originally this was to be an informal internal group, however, it has now been decided to open the meeting to the public.

Dated: February 24, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–5461 Filed 2–25–82; 11:25 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Alaska School Transfers

The President's FY 1983 budget proposes to transfer the thirty-seven (37) Bureau-funded day schools in Alaska to the Alaska State School System at the end of the 1981-82 school year.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM8.

Ken Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–5273 Filed 2–25–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Butte District Grazing Advisory Board; Meeting

The Butte District Grazing Advisory Board will meet on Tuesday, April 6, 1982, in the conference room of the Butte District Office at 106 North Parkmont (Industrial Park), Butte, Montana. The meeting will begin at 9:00 a.m.

The agenda for the meeting will include: (1) Range management policy, including range improvement maintenance; (2) implementation of the Mountain Foothills EIS; (3) an update on planning efforts in the Headwaters Resource Area; (4) an update on planning efforts in the Garnet Resource Area; (5) the Rebish-Anderson range line agreement; and (6) withdrawal reviews of stock driveways in the Dillon Resource Area.

The meeting is open to the public. Interested persons may make oral statements to the board or file written statements for the board's consideration. Persons wishing to make oral statements should make prior arrangements with the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Dated: February 19, 1982.

Jack A. McIntosh,

District Manager.

[FR Doc. 82–5203 Filed 2–25–82; 8:45 am]

BILLING CODE 4310–84–M

Colorado; Mt. Mestas/Rough Mountain Vehicle Use Designation Order

In accordance with Title 43 CFR Part 8300 and in conformance with the principles established by the National Environmental Policy Act of 1969 and the Federal Land Policy Management Act of 1976, notice is hereby given that the vehicle designation order for Mt. Mestas/Rough Mountain originally published in the **Federal Register** (Vol. 45, No. 48, Monday, March 10, 1980, page 15267) is amended.

The original order designated approximately 12,600 acres of land located north and east of U.S. Highway 160 and south of Colorado State Highway 69 near Gardner, Huerfano County, Colorado, in the limited category. An interim off-road vehicle management plan was prepared for the area through cooperation and careful review of other agencies. Primary direction for the plan came from the Raton Basin Management Framework Plan (MFP). Specific decisions in the MFP require that disruption to elk calving activity and elk winter habitat created from vehicle use in this area be mitigated. As a result, the plan specified that such use be regulated.

Following are provisions of the original off-road vehicle management designation:

a. The designated area is closed to all vehicular travel during the months of May and June.

b. Vehicular use is prohibited except on certain existing roads during the balance of the year.

c. These restrictions do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or

emergency purposes, or to any vehicle whose use is expressly authorized by the Authorized Officer or otherwise officially approved by BLM.

During 1980 and 1981 a study was conducted to monitor elk calving activities in the area. The results of the study disclosed that modifications of the original designation should be made. First, vehicle use need not be restricted on some of the lands originally designated because they are not important for elk calving or other wildlife values. Second, certain lands were not found to be important for elk calving but do contain other important wildlife values. Consequently the closure portion of the original order need not apply to these lands, although the rest of the provisions of the order would. Third, some lands are crucial to elk calving and all provisions of the original order should continue to apply to these parcels.

Therefore based on the study results, the following amendment to the Mt. Mestas/Rough Mountain Vehicle Use Designation is made:

I. All of the following described public lands (approximately 4,000 acres) contain important wildlife values but are not critical for elk calving. They are subject to only the restrictions mentioned in b. and c. above:

Sixth Principal Meridian

T. 27 S., R. 69 W.
Secs. 30, 34: All public lands
T. 27 S., R. 70 W.
Secs. 10, 11, 14, 15, 22: All public lands
Sec. 23: W½
T. 28 S., R. 69 W.
Sec. 1: All public lands
Sec. 2: N½NW¼
Secs. 4, 5, 6, 8, 9, 12, 13, 14, 15, 17: All public lands
Sec. 28: NW¼NE¼, N½NW¼
Sec. 29: S½NE¼, NW¼
T. 28 S., R. 70 W.
Sec. 25: All public lands
T. 29 S., R. 69 W.
Sec. 6: All public lands

These lands are bounded on the south and southwest by U.S. Highway 160, on the west by Huerfano County Road 572 (Pass Creek Road), and on the east by Huerfano County Road 530 (Yellowstone Creek Road).

II. All of the following described public lands (approximately 6,400 acres) are critical for elk calving and are subject to all of the restrictions of the original order (i.e. a., b., and c.).

Sixth Principal Meridian

T. 27 S., R. 70 W.
Sec. 23: All public lands in the E½
Secs. 24, 25, 26, 27: All public lands
Sec. 34: All public lands east of Huerfano County Road 572
Sec. 35: All public lands
T. 28 S., R. 69 W.
Sec. 2: SE¼SE¼
Secs. 7, 10, 11, 18, 19: All public lands
Sec. 29: S½
Secs. 30, 31, 32: All public lands
T. 28 S., R. 70 W.
Secs. 1, 2, 12, 13, 24: All public lands
T. 29 S., R. 69 W.
Sec. 5: All public lands

Vehicular travel will not be allowed except as previously noted unless written permission is obtained from the Royal Gorge Resource Area Manager in Cannon City.

Maps of the designated area are posted along with this notice in the Cannon City District Office, 3080 East Main Street, and the Royal Gorge Resource Area Office, 831 Royal Gorge Boulevard, both in Cannon City, Colorado 81212. These maps are also available for the public at these offices.

This interim designation will become effective immediately and will remain in effect until further notice.

Dated: February 17, 1982.

Melvin D. Clausen

District Manager.

[FR Doc. 82-5204 Filed 2-25-82; 8:45 am]

BILLING CODE 4310-84-M

Resource Management Planning; Initiation of a Resource Management Plan (RMP) for the Hollister Resource Area, Bakersfield District, California

January 20, 1982.

In accordance with 43 CFR 1601.3(g), notice is hereby given of resource management planning now underway.

The proposed action is the preparation of an RMP for the Coast portion of the Hollister and Folsom Resource Areas. The plan will address the management of public lands located in Stanislaus, Santa Clara, San Benito, Merced, Monterey, and Fresno Counties west of Interstate Highway 5. The plan is scheduled for completion by October, 1984.

The general types of issues anticipated in the development of the plan are: (1) Livestock grazing; (2) oil, gas, and minerals exploration and development; (3) fire management; (4) access to public lands; (5) unauthorized use of public lands (trespass); (6) recreation use; (7) air and water quality in the Clear Creek Recreation area; and (8) land tenure adjustment (purchase, lease, and/or exchange of public lands).

The RMP will address and analyze all resource values and uses for public lands within the described area and establish guidelines for future management of these lands.

The disciplines to be represented on the interdisciplinary study team are: Wildlife, soils and hydrology, grazing, recreation, cultural resources, socio-economics and lands and minerals.

The public is invited to participate in the planning process by identifying issues, commenting on the planning criteria which will be devleoped to guide the planning effort and providing information to be considered in the planning process. Notice of all public participation opportunities will be given through **Federal Register** notices, local media, and mailings to all parties on the mailing lists.

For further information, location of planning documents for public review throughout the development of the RMP, or to be placed on the mailing lists for the planning efforts, contact: David E. Howell, Area Manager, Hollister Resource Area, P.O. Box 365, Hollister, California 95023, (408) 637-8183.

Michael D. May,

Acting District Manager.

[FR Doc. 82-4608 Filed 2-25-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Closure of Land To Protect Scientific Studies and Preserve Scientific Values

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of land.

SUMMARY: Closure of land to protect scientific studies and preserve scientific values, Medford District, Oregon.

ADDRESS: 3040 Biddle Road, Medford, Oregon 97501.

FOR FURTHER INFORMATION CONTACT: Robert Lewis (503) 776-4335.

SUPPLEMENTARY INFORMATION: Notice is hereby given that public access to certain public lands in the Medford District will be prohibited to protect scientific studies and to preserve scientific values in accordance with the provisions of 43 CFR 6010.4. This closure does not apply to emergency, law enforcement and federal or other government personnel while performing emergency or official acts, or to persons authorized to be present by permit or contract.

The following describes the land to be closed.

Lands to be Closed—

Willamette Meridian, Oregon:

T. 33 S., R. 5 W.,
Sec. 5, Lot 1, 2; SE¼NE¼.

A total approximately 123 acres of public land will be involved in this closure. This closure will be in effect at all times. Closure notices shall be posted at normal points and at appropriate road junctions. The lands affected shall be listed on the closure notices and be designated on an attached map. Copies of this detailed closure will also be available at the following locations:

Oregon State Office, 729 NW. Oregon Street, Portland, OR 97208
Medford District Office, 3040 Biddle Road, Medford, OR 97501

The purpose of this closure is to protect scientific studies and preserve scientific values and to insure the effectiveness of silvicultural treatment of these lands. Persons violating this closure order are subject to arrest and criminal prosecution uder Oregon Revised Status 164.245 (criminal trespass in the second degree; 30 days and/or $250) or 43 CFR 6010.6 and 43 U.S.C. 1733 (1 year and/or $1000).

This closure notice expires on October 1, 1982.

Wayne A. Boden,
Acting District Manager.

[FR Doc. 82-5205 Filed 2-25-82; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Martin Luther King, Jr., National Historic Site; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr. National Historic Site Advisory Commission will be held at 11 a.m. on Monday, March 29, 1982, at the Richard B. Russell Federal Building, Room 1178, 75 Spring Street, SW., Atlanta, Georgia 30303.

The purpose of the Martin Luther King, Jr. National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior on matters of planning, development and administration of the Martin Luther King, Jr. National Historic Site. The agenda will include responsibilities of Federal Advisory Commissions, the Martin Luther King, Jr. National Historic Site Legislation, Martin Luther King, Jr. National Historic Site Advisory Commission Charter, and Planning Issues.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. Randy C. Humphrey
Mrs. Willie Christine King Farris
Mr. Handy Johnson, Jr.
Mr. Howard H. Arnold, III
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex Officio Member
Director, National Park Service, Ex Officio Member

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission 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 Janet C. Wolf, Superintendent, Martin Luther King, Jr. Mr. National Historic Site, 75 Spring Street, SW Atlanta, Georgia 30303, Telephone 404/221-5190. Minutes of the meeting will be available for public inspection at park headquarters approximately 4 weeks after the meeting.

Dated: February 17, 1982.

Neal G. Guse, Jr.,
Acting Regional Director, Southeast Region.

[FR Doc. 82-5238 Filed 2-25-82; 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).

1. Parent corporation and address of principal office: Orgill Brothers Corporation, P.O. Box 140, Memphis, Tennessee 38101.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Orgill Brothers & Co., Inc., P.O. Box 140, Memphis, Tennessee 38101.

(b) The Jordan Companies, P.O. Box 18377, Memphis, Tennessee 38118.

(c) Ben Edwards Furniture Co., Inc., P.O. Box 68, Memphis, Tennessee 38101.

(d) Mint Products International, 4123 Barringer Drive, Charlotte, North Carolina 28210.

1. Parent corporation and address of principal office: Somers Corporation, P.O. Box 0, Navesink, New Jersey 07752.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) Mersman Table Company, P.O. Box 200, Celina, Ohio 45822.

(ii) Waldron Furniture Manufacturing Company, P.O. Box 0, Waldron, Arkansas 72958.

1. Parent corporation and address of principal office: Spectral Enterprises, Inc., Post Office Box 467, Grand Haven, MI 49417.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Spectral Enterprises, Inc., Michigan.

(ii) Meeuwsen Produce, Inc., Michigan.

(iii) Northland Produce, Inc., Michigan.

(iv) Bremer Sugar & Distribution Co., Inc., Michigan.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5183 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any

application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

Dated: February 22, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC F-14791, filed January 29, 1982. Applicant: ROSS NEELY, JR., an Individual, P.O. Drawer B, Pratt City Station, Birmingham, AL 35215—CONTROL—GADSDEN TRUCK LINE, INC., 1708 Mt. Zion Blvd., Gadsden, AL 35901. Representative: Alan E. Serby, SERBY & MITCHELL, P.C., 3390 Peachtree Road, N.E., Atlanta, Georgia 30326. Ross Neely, Jr., an Individual, seeks authority to acquire control of Gadsden Truck Line, Inc. through ownership of the capital stock, and in the same transaction, requests authority for approval of resultant common control with Ross Neely Express, Inc. and Neely Transport, Inc. Approval of common control between Ross Neely Express, Inc. and Neely Transport, Inc. is pending before the Commission in No. MC F-14745. Gadsden Truck Line, Inc. is a motor common carrier operating over regular and irregular routes pursuant to the certificated authority issued by this Commission in Docket No. MC 121006 and subs thereto. It is authorized to conduct general commodity operations generally between points in AL, on the one hand, and, on the other, points in the U.S. east of ND, SD, NE, CO, and NM.

Notes.—An application for temporary authority has been filed.

MC F-14799, filed February 5, 1982. Applicant: BARRY & FOLEY MOTOR TRANSPORTATION, INC. (Barry), 2 Keese Street, Worcester, MA 01604—PURCHASE—MONAHAN TRANSPORTATION CO. [FRANK ARNOT TRUSTEE IN BANKRUPTCY] (Monahan), 99 Colorado Avenue, Warwick, RI 02888. Representative: David E. McCabe, P.O. Box 402, Kittery, ME 03904. Barry seeks authority to purchase the operating rights of Monahan. F. Dalton Barry, who controls Barry, seeks to acquire control of said rights through the transaction. Barry is purchasing the operating rights of Monahan contained in Certificates No. MC 60203 and (Sub-Nos. 3, 4, 5, and 8), which generally authorize the transportation, as a motor carrier, over regular routes of general commodities, with exceptions, between points in CT, MA, and RI.

Barry presently holds rights under No. MC 99912.

Note.—An application for temporary authority has been filed.

Condition.—Although F. Dalton Barry has signed the application on behalf of the applicant, he must also join in the application as the person who controls the applicant.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5181 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79407. By decision of February 16, 1982, Review Board 3 approved the transfer to INLAND COMMERCIAL CO., INC., of Seattle, WA, of Certificate No. MC-147748 Sub-2 issued to J. J. Riedinger, d.b.a. Overland Commercial Company of Seattle, WA, authorizing general commodities (except explosives), between (1) Seattle and Tacoma, WA (ex-water) (2) King, Pierce and Kitsap Counties, WA, and points in ID in and north of Neg Perce, Lewis and Clearwater Counties. Representative: George R. LaBissoniere; 15 S. Grady Way, Suite 233, Renton, WA 98055. TA

lease is not sought. Transferee is not a carrier.

MC–FC–79480. By decision of November 25, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to AMERICAN CONTINENTAL VAN LINES, INC., of Owings Mills, MD, of Certificate No. MC–155807, isued August 28, 1981, the Elite Moving and Storage, Inc., of Owings Mills, MD, authorizing the transportation of *household goods,* (1) between points in MA, RI, CT, NY, NJ, PA, MN, DE, VA, WV, NC, SC, GA, FL, and DC; and (2) between points in (1) above, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, CO, OK, and TX. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. TA has not been filed. Transferee is not a carrier.

MC–FC–79530. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to URBAN TRUCKING CO., INC. of Boston, MA of Certificate No. MC–148932 Sub 1 issued to Atlantic Transport, Inc., of Boston, MA (B&T Transportation Co., Creditor in Possession) authorizing general commodities (with exceptions) over described regular routes, serving named intermediate and off-route points between (1) Worcester, MA and Newark, NJ; and (2) Boston, MA and Newark, NJ; and over irregular routes between Worcester, Springfield, and Haverhill, MA on the one hand, and, on the other, points in described portions of NY and NJ, with restriction. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. TA lease is not sought. Transfereee is not a carrier.

MC–FC–79553. By decision of February 10, 1982, Review Board Number 3 approved the transfer to WILLIE K. and JUDITH A. HOLLAND, and GREGORY V. and BILLY S. ETCHISON, d.b.a. VAIL NORTHWEST, of Springfield, OR, of Certificate No. MC–157252 issued to Monarch Wood Products Co. Eguene, OR, authorizing: (1) Timber and wood products, between points in OR, WA, and CA; and (2) metal products, machinery, and clay, concrete, glass or stone products, between points in OR and WA. Representative: Gregory V. Etchison, P.O. Box 645, Springfield, OR 97477. TA lease is not sought. Transferee is not a carrier.

MC–FC–79563. By decision of February 16, 1982, Review Board 3 approved the transfer to BI COUNTY TRUCKING, INC. of Warden, WA, of Certificate No. MC–128102 and Subs 4 and 5 issued to State Motor Freight, Inc., of Pasco, WA, authorizing: *Wood shavings,* and *straw* when moving in mixed loads with wood shavings from points in Yakima and Kittitas Counties, WA to points in Umatilla, Wallowa, and Union Counties, OR; *Fertilizer and fertilizer ingredients,* (1) from Finley-Hedges, WA to points in Montana and (2) from Three Forks, Montana to Finley-Hedges, WA; *Commodities in bulk,* and *Chemicals and related products,* between points in WA, OR, ID, MT, and CA, and (2) *Food and related products* between points in Walla Walla County, WA and Ada County, ID and points in WA, OR, ID, MT, CA & NV. Representative: Boyd Hatman, P.O. Box 3641, Bellevue, WA 98009. TA lease is sought, Transferee is a carrier.

MC–FC–79571. By decision of February 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to W. M. BURNETT TRUCK LINE, INC., of Haleyville, AL, of Certificate No. MC–116110 (Sub-No. 18), issued to P. C. White Truck Line, Inc., of Dothan, AL (R. S. Renfro, Trustee in Bankruptcy), which authorizes the transportation, as a common carrier, over regular routes, of *general commodities* (except household goods, commodities in bulk, Class A and B explosives and commodities which because of size or weight require the use of special equipment), (1) between Troy, AL, and Memphis, TN, (2) between Columbus, GA, and Tupelo, MS, (3) between Clanton, AL and Memphis, TN, serving in connection with routes (1, 2, and 3) all intermediate points and (4) between junction Interstate Hwy 65 and Alternate U.S. Hwy 72, on the one hand, and, on the other, junction U.S. Hwy 72 and Alternate U.S. Hwy 72, for operating convenience only, serving as off-route points in connection with the routes in (1, 2, and 3) above Crittenden County, AR, Shelby County, TN, Harris, Meriwether, Troup, Talbot, and Upson Counties, GA, and Lauderdale, Colbert, Lawrence, Limestone and Morgan Counties, AL, restricted against the handling of traffic between Memphis, TN and its commercial zone, on the one hand, and, points in MS, on the other. Representative: Donald S. Sweeney, Jr., P.O. Box 2366, 1010 Massey Bldg., Birmingham, AL.

Note.—Transferee holds authority in Certificate of Registration MC–85578 and presently has an application pending to convert that authority into a certificate of public convenience and necessity.

MC–FC–79573. By decision of February 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to HAMILTON TRUCKING, INC. of Certificate No. MC–145172 (Sub-No. 1)F issued October 2, 1980 to Robert L. Welborn and Wanda Sue Welburn, d.b.a. ORIENT EXPRESS authorizing the transportation of *foodstuffs,* over irregular routes in vehicles equipped with mechanical refrigeration, from points in Los Angeles and Orange Counties, CA to points in Maricopa County, AZ. Representative: Donald W. Powell, Esq., 4150 North 12th Street, Phoenix, AZ 85014.

MC–FC–79591. By decision of February 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GEORGE D. BALLMAN & TERRY M. DeMATTEI, a partnership, d.b.a. TURNER VAN LINES of Noster, MO of Certificate No. MC–144229 (Sub-No. 1), issued to Cameron Enterprises, Inc. of Blue Springs, MO authorizing household goods, in containers between Benton, Henry, Hickory, Johnson, Lafayette, Pettis, St. Clair, Saline and Jackson Counties, MO. Representative: George Ballman/Terry DeMattei, Rt. 2 Knob, Noster, MO 65336. TA lease is sought. Transferee in not a carrier.

MC–FC–79593. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BOOK MFG. EXPRESS, INC., of Scranton, PA, of Permit Nos. MC–151948 and MC–151948 (Sub-No. 1), issued to C & E Transport, Inc., of Scranton, PA, authorizing the transportation, as a contract carrier, of *general commodities,* (except household goods as defined by the Commission and classes A and B explosives), between points in the United States, under continuing contract with Haddon Craftsmen, Inc., of Scranton, PA, and Lindenmeyr Paper Corporation of Long Island City, NY. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108–1166.

Note.—Transferee is not a carrier but is affiliated with transferor.

MC–FC–79594. By decision of February 9, 1982, Review Board 3 approved the transfer to J & T INC. of Belchertown, MA of Permit No. MC–146857 Sub 2F issued to W. K. Thomas, Inc. of Ludlow, MA, authorizing: magazines and magazine parts and sections, from Chicago, IL, to points in CT, under contract(s) with U.S. News and World Report, Inc. Representative: Patrick A. Doyle, 40 Sky Ridge Lane,

Springfield, MA 01128. TA lease is not sought. Transferee in not a carrier.

MC–FC–79595. By decision of February 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to J & T INC., of Belchertown, MA, of Permit No. MC–146858 (Sub-No. 2) issued July 29, 1980, to Amherst Enterprises Inc., of North Amherst, MA, authorizing: malt beverages from points in Oswego County, NY, to points in ME, NH, VT, MA, CT, RI, and NY, under continuing contract with Luey & Abercrombie, Inc., of Deerfield, MA. Representative: Patrick A. Doyle, 40 Sky Ridge Lane, Springfield, MA 01128. TA lease is not sought. Transferee is not a carrier.

MC–FC–79605. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to C. L. YOUNG, INC., Page, AZ, of Certificate No. MC–127012 and 127012 (Sub-No. 3) issued, respectively, May 21, 1965, and August 4, 1981, to William B. Huff authorizing the transportation of *salt* (a) from Salt Lake City and Redmond, UT, and points within 20 miles of each, to points in a described portion of AZ, (b) from points in Salt Lake, Weber, Davis, and Utah Counties, UT, to the Glen Canyon Dam Site in AZ and points within 10 miles thereof, and (c) from Solar, UT, to points in AZ. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110.

MC–FC–79606. By decision of February 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ROBERT G. GRAHAM* of Certificate No. MC–42894 issued December 14, 1973, to Frank M. Herbert, Inc. authorizing the transportation over irregular routes of *commodities* which because of size or weights require the use of special equipment, factor equipment and contractor's equipment, between points in CT, DE, MD, MA, NJ, NY, PA and RI. Representative: Ben Cotten, Attorney, 1899 L Street, NW., Suite 1200, Washington, D.C. 20036.

MC–FC–79609. By decision of February 16, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PETER PAN WORLD TRAVEL, INC. of Certificate No. MC–61016 (Sub-No. 52) issued to Peter Pan Bus Lines, Inc. authorizing the transportation of *passengers and their baggage*, in charter and special operations, (1) between points in ME, NH, VT, MA, CT, RI, and NY; and (2) beginning and ending at points in the states named in (1) above and extending to points in the United States (including AK but excluding HI).

Notes.—(1) Transferee holds no motor carrier authority from the Commission (2) because transferor is retaining duplicative authority applicants elected to submit evidence showing a public need for the competitive service as required in 49 U.S.C. 10922. Representative: Robert J. Brooks, 1828 L Street, NW., Suite 1111, Washington, DC 20036.

MC–FC–79613. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TRANS WEST SYSTEMS, INC., of Pocatello, ID, of (1) Certificate No. 64186, issued to Gary C. Cooper, d.b.a. Aberdeen Truck Line; (2) Certificate No. MC–140305, issued to Lee Hawkes Transfer, Inc., and (3) Permit No. MC–146859 (Sub-No. 2), issued to Western States Freport, Inc., which authorize the transportation of (1) *general commodities* (with usual exceptions over regular routes between Pocatello and Aberdeen, ID, serving all intermediate points and the off-route points of Groveland, Rockfort, and Sterling, ID, with restriction; (2) *household goods*, between points in ID, on the one hand, and, on the other, points in UT and MT; and (3) *general commodities* (except classes A and B explosives) between points in the United States, under continuing contracts with Amway Corporation of Kent, WA. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701.

Note.—Transferee does not hold any permanent authority from this Commission. Transferee and the 3 transferors are affiliated.

MC–FC–79617. By decision of February 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Harrell Transfer & Storage, Inc., of Tallahassee, FL of Certificate No. MC-88771 issued to Ernest Mitts, William J. Brown d.b.a. HARRELL TRANSFER & STORAGE of Tallahassee, FL authorizing household goods between named points in FL, on the one hand, and, on the other points in AL, GA, MS, SC, TN, NC, LA and TX. Applicant's representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, FL 32302. TA lease is not sought. Transferee is not a carrier.

MC–FC–79618. By decision of February 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Owens Bros. Trucking, Inc., of Bernie, MO, of Certificate No. MC–125527 issued March 8, 1974, MC–125527 (Sub-No. 3) issued April 28, 1976, MC–125527 (Sub-No. 4) issued August 12, 1980, and MC–125527 (Sub-No. 5) issued August 6, 1981, to Buford Owens and Jerry C. Owens, a partnership, d.b.a. OWENS BORS. TRUCKING & LINE CO., of Bernie, MO, authorizing: (1) *fertilizer*, from Walnut Ridge, AR, to Malden, MO; (2) *dry fertilizer and dry fertilizer materials*, in bulk, from the facilities of Cargill, Incorporated at or near New Madrid, MO, to points in AR, IL (except East St. Louis and those points in IL located within the St. Louis, MO-East St. Louis, IL, Commercial Zone), IA, KY, and TN; (3) *dry fertilizer and fertilizer ingredients*, in bulk, from points in Mississippi County, AR, to points in MO; (4) *fertilizer and fertilizer ingredients* (except petroleum and petroleum products), from points in Pemiscott County, MO, to points in AR, KY, and TN and (5) *agricultural chemicals and related products*, between points in AR, IL, MO, KY, TN, LA, and MS. Applicant's representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102; phone: 314–636–2321. TA lease is not sought. Transferee is not a carrier.

MC–FC–79623. By decision of February 10, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Enid Transport, Inc. of Certificate Nos. MC–154419 and No. MC–154419 (Sub-No. 1) issued October 22nd and October 8, 1981 to Paul Gailey authorizing the transportation over irregular routes, of (1) *food* and *related products*, between points in St. Louis County, MO and St. Clair County, IL, on the one hand, and, on the other, Ponca City, OK and points in Garfield County, OK; (2) *malt beverages*, between points in Tarrant County, TX, on the one hand, and, on the other, points in Pottawatomie County, OK. Applicants' representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106.

MC–FC–79627. By decision of February 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Tri-State Trailways, Inc. of Certificate No. MC–111118 issued May 6, 1971 to Dunlap Bus Lines, Inc. (Internal Revenue Service) authorizing the transportation over described regular routes of Passengers and their baggage, and express, mail and newspapers, in the same vehicle with

*The agreement states the Chase Manhattan Bank as a buyer. However they are not shown as a transferee in the application and since they are only listed as buyer to secure that the purchase price is paid.

passengers, (1) between Dresden, TN, and Memphis, TN, serving all intermediate points, but with service at Memphis, Brownsville, and points intermediate thereto restricted to traffic originating at, or destined to, or interchanged at Dresden or at points intermediate between Dresden and Brownsville; (2) between Paris, TN, and Dresden, TN, serving all intermediate points; and (3) between Union City, TN, and Jacks Creek, TN, serving all intermediate points. Applicants' representative: James Clarence Evans, 1800 Third National Bank Building, Nashville, TN 37219.

FD-29845. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1151, Review Board Number 3 approved the transfer to C-JOY INTERNATIONAL, INC. of Permit No. FF-371 issued to HIGA FAST PAC, INC., EDWARD M. WALSH TRUSTEE IN BANKRUPTCY, authorizing the operation as a freight forwarder of (a) *used household goods* (b) *used automobiles,* and (c) *unaccompanied baggage,* between points in the United States (including Hawaii but excluding Alaska), restricted in (b) to the transportation of export and import traffic. Applicant's representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006.

Notes.—Transferee is a non-carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5185 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 236]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: February 23, 1982.

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 U.S.C. 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.

MC 59806 (Sub-24)X, filed February 4, 1982. Applicant: GROSS & HECHT TRUCKING, INC., 35 Brunswick Avenue, Edison, NJ 08817. Representative: A. David Millner, P.O. Box Y-7 Becker Farm Road, Roseland, NJ 07068. Sub 17 permit and contract carrier authority acquired in MC-F-14437 and MC-F-14639. Broaden Sub 17 and F-14437F authorities to between points in US, except AK and HI under continuing contract(s) with named shippers; in F-14437F, broaden canned non-alcoholic beverages and beverage containers to "beverages and beverge containers"; in F-14639F authority, broaden flavoring syrup, liquid and invert sugar to "food and related products" and new and used containers to "containers"; to between points in the US, except AK and HI" under continuing contract(s) with named and unnamed shippers; remove restriction against liquid chocolate, liquid chocolate coatings and liquid chocolate liquor from flavoring syrups description; in Sub 17 and F-14437 authority, remove except in bulk restriction.

MC 102817 (Sub-31)X, filed February 2, 1982. Applicant: PERKINS FURNITURE TRANSPORT, INC., 5034 Lafayette Rd., P.O. Box 24335, Indianapolis, IN 46224. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Subs 11, 16, 26 and 28 certificates: (1) broaden to "furniture and fixtures" from (a) new furniture, uncrated, and/or in containers, when shipped with uncrated furniture, Sub 11; (b) crated store fixtures, and crated furniture, Sub 16; (c) new furniture, Sub 26; and, (d) new furniture, kitchen cabinets, store and office fixtures, hospital beds and related hospital furniture, Sub 28; (2) remove the (a) specified point restriction, Subs 11 and 28; and, (b) originating at and/or destined to restriction, Subs 11, 16 and 28; (3) broaden to county-wide authority: (a) Sub 11, Kosciusko County, IN (Warsaw) and, Perry County, IN (Tell City); (b) Sub 16, Charleviox County, MI (Charleviox); and (c) Sub 28, Allegan, Kent, Ottawa and Barry Counties, MI (Grand Rapids); Franklin, Delaware, Licking, Fairfield, Pickaway, Madison and Union Counties, OH (Columbus); Lucas County, OH (Holland); Fulton County, OH (Swanton); Boone and Kenton Counties, KY (Florence); Jefferson, Oldham, Shelby and Bullitt Counties, KY (Louisville); Davidson County, NC (Welcome); Marion, Dillion and Horry Counties, SC (Nichols); Catawba, Burke, Caldwell and Alexander Counties, NC (Hickory); and, Mecklenburg, Cabarrus, Gaston, and Union Counties, NC and Lancaster and York Counties, SC (Charlotte); and, (4) broaden to radial authority, all Subs.

MC 104887 (Sub-8)X, filed February 9, 1982. Applicant: AMERICAN VANLINES, INC., 2125 N.W. 1st ct., Miami, FL 33127. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Sub-No. 6G: broaden household goods to "household goods and furniture and fixtures."

MC 116949 (Sub-22)X, filed February 5, 1982. Applicant: BURNS TRUCKING, INC., RR#1, Box 304, So. Sioux City, NE 69886. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Lead and Subs 8, 10, 11, 14 and 18F permits: (A) broaden to (1) "transportation equipment and materials, equipment, and supplies used in the manufacture and distribution of such commodities" from (a) new or used trailers, other than those designed to be drawn by passenger automobiles, in initial or secondary movements, in truckaway service, and parts for the repair of wrecked or disabled trailers, lead and Sub 11; (b) semi-trailers and semi-trailer parts and accessories or equipment thereof, Subs 8 and 10; (c) wrecked semi-trailers, Sub 10; and (d) wrecked truck tractors, in truckaway service, lead; (2) "transportation equipment and machinery and materials, supplies and equipment used in the manufacture and distribution of such commodities" from materials and supplies utilized in the manufacture of trailers and earth m,oving equipment, Sub 18F; and (3) "lumber and wood products and metal products" from new doors and windows and screens thereto, and returned shipments, Sub 14; (B) remove "except commodities in bulk" and "in tank vehicles" restriction, Sub 18F; and (C) broaden to between points

in the U.S., under continuing contract(s) with named shippers, all Subs.

MC 124408 (Sub-25)X, filed February 11, 1982. Applicant: THOMPSON BROS., INC., 3604 Hovland Drive, P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. No. MC–129974 Sub 18F permit, (1) broaden to "food and related products" from spices, flavorings, mustard, and mustard products; (2) to between points in the U.S., under a continuing contract(s), with named shipper; and (3) remove commodities in bulk, in tank vehicles exception.

MC 133604 (Sub-17)X, filed February 4, 1982. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 South 11th St., Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead and Subs 6, 7, 10 and 11 broaden (1) to "lumber and wood products" from lumber and "metal products" from machined castings, lead; to "food and related products" from meat, meat products and meat by-products, lead and Subs 6, 7 and 10; from foodstuffs, Subs 6, 7 and 10 and from foodstuffs and materials, equipment and supplies used in the manufacture of gelation products, Sub 11, (2) Moravia, IA to Appanoose County; Jonesboro and Bearden, AR to Craighead and Ouachita Counties; Oskaloosa, IA to Mahaska County; Bay Minette and Mobile, AL to Baldwin and Mobile Counties; Ottumwa, IA to Wapello County, lead; Algona and Ft. Dodge, IA to Kossuth and Webster Counties, Subs 6 and 7; Knoxville and Ames, IA to Marion and Story Counties, Sub 7; Austin, MN to Mower County; Ottumwa and Ft. Dodge to Wapello and Webster Counties, Sub 10; and Davenport, IA to Davenport, IA, and Rock Island and Moline, IL commercial zone, Sub 11, (3) remove facilities limitation, restrictions against hides, commodities in bulk, originating at/destined to, and to specified commodities, and (4) to radial authority.

MC 144484 (Sub-16)X, filed February 1, 1982. Applicant: FREIGHTWAYS, INC., P.O. Box 31, Industrial Park Dr., Eldon, MO 65026. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. No. MC–144484 (Sub-No. 13) and MC–140241 (Sub-No. 31F (acquired in MC–F–14341)) certificates: (A) broaden from pipe, fittings, valves, and hydrants, and accessories to "rubber and plastic products; clay, concrete, glass, and stone product; metal products and machinery", Sub 31F; (B) remove the "specified commodities" and "commodities in bulk" restrictions, Sub 31F; (C) broaden to (1) city-wide and/or county-wide authority: (a) Chicago, IL and Will County, IL (facilities—Chicago and Wilmington), Sub 13; and (b) Boone, Callaway, Moniteau and Cooper Counties, MO (facilities—Columbia), Sub 31F; and, (2) radial authority, both Subs.

MC 145454 (Sub-25)X, filed February 8, 1982. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 7336 West 15th Avenue, Gary, IN 46406. Representative: Anthony E. Young, Suite 350, 29 South LaSalle Street, Chicago, IL 60603. Lead and Subs 2F, 3F, 8F, and 21 (in part) certificates, broaden: (1) to "food and related products," from frozen foods, canned, chilled and frozen foods, bananas, and agricultural commodities exempt from regulations when transported in mixed loads, and edible meats and meat products; (2) to countywide authority, as follows: lead, Scott County, MS (facilities near Forest); Sub 2, Nashville, TN and Rutherford County, TN (facilities near Murfreesboro and Nashville); Sub 3, Charleston, Dorchester and Berkeley Counties, SC (Charleston), and Hillsborough and Pinellas Counties, FL (Tampa); Sub 8, Pasco County, FL (facilities near Dade City); Sub 21 (pp. 9 and 10), Harrison County, MS (Gulfport), and Orleans, St. Bernard, Plaquemines, Jefferson and St. John The Baptist Parishes, LA (New Orleans and Metairie); (3) replace one-way service with radial; and (4) remove "except in bulk" restrictions in Subs 2 and 9; "originating at and destined to" restrictions in the lead, Subs 2 and 21 (pp. 9 and 10); and "equipment" and "ex-water" restrictions in Sub 21.

MC 149591 (Sub-8)X, filed February 11, 1982. Applicant: VALLEY EXPRESS, INC., P.O. Box 68, Glyndon, MN 56547. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. Sub 6 (1) broaden tree or weed killing compounds to "chemicals and related products"; and (2) remove in containers restriction.

[FR Doc. 82–5173 Filed 2–25–82, 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP4–67]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided February 19, 1982.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance

with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Carleton, Fisher, Williams.

Agatha L. Mergenovich,

Secretary.

MC–F–14796, filed February 2, 1982. Applicant: JAMES R. WEIR (WEIR) (P.O. Box 328, Columbia City, IN 46725)—CONTINUANCE IN CONTROL—TRAFCO, INC. (TRAFCO) (Diamond Ave., Columbia City, IN 46725). Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46725. Weir, an Individual, seeks to continue in control of Trafco upon the institution by Trafco of operations in interstate or foreign commerce, as a motor common carrier. Weir also controls Columbia City Freight Lines, Inc., a motor common carrier pursuant to Certificates issued in MC–107487 and subs which authorize the transportation of general commodities, with certain exceptions, over regular routes, between Fort Wayne, IN and Columbia City, IN, between Columbia City, IN and Howe, IN, between Columbia City, IN and Millersburg, IN, between South Bend, IN and Middlebury, IN, and between Elkhart, IN and junction U.S. Hwy 6 and IN Hwy 13, and over irregular routes, between Fort Wayne, IN, on the one hand, and, on the other, specified points in IN, and between points in specified counties in IN, IL, MI, OH. Trafco holds no present authority. Simultaneously herewith it has filed a common carrier application docketed No. MC–155826 to transport general commodities (except classes A and B explosives), between points in Elkart, Allen, Kosciusko, Huntington, Noble, Dekalb, LaGrange, Marshall, St. Joseph, and Whitley Counties, IN, on the one hand, and, on the other, points in NE, and those points in the U.S. in and east of WI, IA, MO, AR, and TX.

[FR Doc. 82–5174 Filed 2–25–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume OP4–68]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: February 19, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications ae governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically 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 protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

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 Number 2, Carleton, Fisher, Williams.

Agatha L. Mergenovich,

Secretary.

MC 155826, filed February 2, 1982. Applicant: TRAFCO, INC., Diamond Ave., Columbia City, IN 46725. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives), between points in Elkhart, Allen, Kosciusko, Huntington, Noble, DeKalb, LaGrange, Marshall, St. Joseph, and Whitley Counties, IN, on the one hand, and, on the other, points in NE, and those in the U.S. in and east of WI, IA, MO, AR, and TX.

Note.—This application is directly related to MC–F–14796, published in this same **Federal Register** issue.

[FR Doc. 82–5175 Filed 2–25–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-32

Decided: February 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 116993 (Sub-4), filed February 1, 1982. Applicant: CITY HAUL, INC., 705 E. 2nd St., Cincinnati, OH 45202. Representative: Richard Rueda, 135 N. 4 St., Philadelphia, PA 19106, (215) 627-1925. Transporting *general commodities* (except classes A and B explosives and household goods), between Cincinnati and Dayton, OH, on the one hand, and, on the other, Baltimore, MD, New York, NY, Norfolk, VA, and points in OH, IL, IN, KY, MI, MO, PA, WV and NJ.

MC 145102 (Sub-82), filed January 29, 1982. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under a continuing contract(s) with Bostrum-Warren, Inc., of Seattle, WA.

MC 154323 (Sub-3), filed February 1, 1982. Applicant: S L X TRANSPORT, INC., 1703 Highway Two, Duluth, MN 55810. Representative: E. L. Newville (same as applicant), (218) 624-0370. Transporting *such commodities* as are dealt in or used by tree farmers and wood converters, between points in AR, CA, FL, ID, IL, IN, KY, LA, MA, MN, MO, NJ AND PA, on the one hand, and, on the other, points in the U.S.

MC 159982 (Sub-1), filed February 1, 1982. Applicant: O.L. EXPRESS, LTD., Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282-3525. Transporting *food and related products,* (1) between points in Kent County, RI, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TX and WI, and (2) between points in MA, on the one hand, and, on the other, points in IA, NE, and MO.

MC 160302, filed January 28, 1982. Applicant: THOMAS INDUSTRIES EXPRESS, INC., P.O. Box 769, 1700 Gilbert St., Hopkinsville, KY 42240. Representative: William H. Borghesani, Jr., 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457-1122. Transporting (1) *cloth fabric and piece goods,* between points in the U.S., under continuing contract(s) with Elk Brand Manufacturing Company, of Hopkinsville, KY; (2) *tool boxes, tool chests, fishing tackle boxes and fishing tackle chests,* between points in the U.S., under continuing contract(s) with Atkinson Manufacturing Company, of Ludington, MI: and (3) *plastic articles,* between points in the U.S., under continuing contract(s) with Nestier Corporation, of Dawson Springs, KY.

Volume No. OP3-030

Decided: February 19, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 107445 (Sub-42), filed February 5, 1982. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 W. Troy Ave., P.O. Box 33051, Indianapolis, IN 46203. Representative: K. Clay Smith (same address as applicant), (317) 783-9235. Transporting (1) *machinery,* (2) *metal products* and (3) *those commodities* which because of their size or weight requires the use of special handling or equipment, between points in Berkshire County, MA, Lowndes County, MS, Multnomah County, OR, Aiken County, SC, Shelby County, TN, and Rock County, WI, on the one hand, one the other, points in the U.S.

MC 111274 (Sub-82), filed February 8, 1982. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative Frederick C. Schmidgall (same address as applicant), (309) 266-9773. Transporting *lumber and lumber mill products,* between points in the U.S., under continuing contract(s) with Sprenger Midwest Inc., of Minneapolis, MN.

MC 135364 (Sub-51), filed February 5, 1982. Applicant: MORWALL TRUCKING, INC., Box 76C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. Transporting *machinery,* between points in the U.S. under continuing contract(s) with Matsushita Electric Coropration of America of Fayetteville, TN.

MC 142064 (Sub-8), filed February 5, 1982. Applicant CAROLINA CARPET CARRIERS, INCORPORATED, P.O. Box 6, Williamston, SC 29697. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC, 29606, (803) 288-6000. Transporting *malt beverages, wine and brandy,* between points in the U.S., under continuing contract(s) with Acme Distributing Co. of Spartanburg, Inc., of Spartanburg, SC, Better Beer and Wine Company, of Greenville, SC Central Distributing Company, of Sumter, SC, Frank Distributing Co., Inc., of Anderson, SC, Southern Distributing Co., Inc., of Florence, SC, Southern Distributors of Spartanburg, Inc., of Spartanburg, SC, Stevens Corporation, of Myrtle Beach, SC, and Western Beverage Co., Inc., of Taylors, SC.

MC 147965 (Sub-5), filed February 4, 1982. Applicant: GUNTHER H. M. KLIESE, d.b.a. P & M ENTERPRISES, 10650 SW Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226-3755. Transporting *textile mill products, rubber and plastic*

products, and metal products, between points in OR, WA and MT, on the one hand, and, on the other, points in OH, IN, IL, WI, MO, PA, NY, MA, GA, RI, NJ, NC, UT, CA and WA.

MC 147965 (Sub-6), filed February 11, 1982. Applicant: GUNTHER H. M. KLIESE d.b.a. P & M ENTERPRISES, 10650 SW Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *refractory materials, exothermics, fluxes, chemical compounds, mineral compounds, and steel mill and foundry materials, supplies and equipment* (except commodities in bulk), between points in OH, PA and IL, on the one hand, and, on the other, points in WA, OR and UT.

MC 148114 (Sub-1), filed February 8, 1982. Applicant: E. S. MARTINS TRUCKING, INC., R.D. #4, Box 344, Hanover, PA 17331. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *general commodities* (except classes A and B explosives), between points in PA, on the one hand, and, on the other, points in the U.S.

MC 150255 (Sub-3), filed February 11, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *alcoholic beverages* and *related mixes,* between points in the U.S., under continuing contract(s) with the Wyoming Liquor Commission, of Cheyenne, WY.

MC 150444 (Sub-6), filed February 10, 1982. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (Same address as above), (703) 734–2810. Transporting *glass and glass products, fibreboard, wood and wood products,* between points in the U.S., under continuing contract(s) with General Glass International Corp., of New Rochelle, NY.

MC 151014 (Sub-1), filed February 8, 1982. Applicant: WITTE ASSOCIATES, INC., d.b.a. WITTE TRAVEL, 7195 Thornapple River Dr., Ada, MI 49301. Representative: Curtis D. Jonker, 880 Union Bank Bldg., Grand Rapids, MI 49503, (616) 458–8833). As a *broker* at ada, MI in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, between points in MI, on the one hand, and, on the other, points in the U.S.

MC 151534 (Sub-6), filed February 12, 1982. Applicant: R & D TRANSPORTATION CORPORATION, P.O. Box 1908, Des Moines, IA 50306. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309, (515) 283–2411. Transporting *lumber, lumber products, metal products, and building materials,* between points in the U.S. (except AK and HI).

MC 154265 (Sub-2), filed February 10, 1982. Applicant: MIKE WILLIAMS TRANSFER, INC., 2 Foxhurst Court, Manhasset Hills, NY 11040. Representative: Kenneth M. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374–4565, (212) 275–1000. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Sperry Corporation, of Fairfax, VA.

MC 156045 (Sub-2), filed February 8, 1982. Applicant: H. P. LEASING, INC., 44 Chandler Dr., Somerset, MA 02726. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043, (617) 749–6500. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Princess House, Inc. of No. Dighton, MA. Titleist Golf Division of Acushnet Co. of New Bedford, MA, Quality Carpet Inc. of Avon, MA, Poly-America Inc. of Grand Prairie, TX and Globe Manufacturing Company of Fall River, MA.

MC 156064 (Sub-1), filed February 9, 1982. Applicant: GENEVA AND JOHN NIXON, d.b.a. NIXON FREIGHT LINES, 3618 U.S. Route #42, Box 213, Mason, OH 45040. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *scrap metals* and *used railroad car parts,* between points in the U.S. (except AK and HI).

MC 160414, filed February 4, 1982. Applicant: MARTIN TRANSFER, INC., 908 Gemini, Houston, TX 77058. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768, (512) 476–6391. Transporting *metal products* and *Mercer commodities,* between points in NM and TX, on the one hand, and, on the other, points in AR, CO, LA, NM, OK and TX.

MC 160434, filed February 5, 1982. Applicant: R. S. LIQUID WASTE DISPOSAL, INC., 163 Pinnery Ave., Warwick, RI 02886. Representative: David F. Sweeney, 10 Jefferson Blvd., Warwick, RI 02888, (401) 785–0200. Transporting (1) *chemicals and related products,* and (2) *hazardous materials,* between points in ME, NH, VT, MA, RI, CT, NY, and NJ, on the one hand, and, on the other, Williamsburg, OH.

Note.—The certificate in this proceeding to the extent it authorizes the transportation of hazardous materials shall expire 5 years from the date of issuance.

MC 160444, filed February 5, 1982. Applicant: B & T TRUCK LINES, INC., 2224 No. Knox St., Chicago, IL 60637. Representative: Themis N. Anastos, 120 W. Madison St., Chicago, IL 60602, (312) 782–8668. Transporting *food and related products,* between points in IL, MS, IN, MI, MN, WI, OH, TN, KY, AR and MO.

MC 160484, filed February 8, 1982. Applicant: CAHILL & SONS TRANSPORT INC., 17 Deerfield Rd., Port Washington, NY 11050. Representative: Bruce J. Robbins, 18 E. 48th St., New York, NY 10017, (212) 755–9400. Transporting *malt beverages,* between points in NY and NJ, on the one hand, and, on the other, those points in the U.S. in and east of MI, WI, IL, KY, TN and MS.

MC 160525, filed February 10, 1982. Applicant: ELITE EXPRESS, 2449 Faithhome Rd., Ceres, CA 95307. Representative: Lillie Mello (same address as applicant), (209) 537–4869. Transporting *food and related products,* between points in OR, WA and AZ.

MC 160554, filed February 12, 1982. Applicant: M.C.J. COACH LINES, INC., 127 16 34th Ave., Flushing, NY 11368. Representative: John J. Logan (same address as applicant), (212) 424–4800. Transportating *passengers,* between points in CT, NY, and NJ, under continuing contract(s) with Paul Shenkman Associates, of New York, NY.

MC 160555, filed February 12, 1982. Applicant: ERWIN R. GRAESE, d.b.a. GRAESE AUTOMOTIVE, 2872 Madison Ave., Loveland, CO 80537. Representative: Richard S. Mandelson, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting (1) *lumber,* (2) *wood products,* and (3) *metal products,* between points in AZ, CA, CO, ID, IN, KS, MN, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, VA, WA, and WY.

MC 146724 (Sub-9), filed January 18, 1982, previously published in the **Federal Register** issue of February 2, 1982. Applicant: DEAN RAPPLEYE, INC., 7444 S. 2200 W., West Jordan, UT 8408. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *food and rlated products* (except commodities in bulk), (1) between Salem, OR, Kennewick, WA, points in Marion County, OR, Benton and Snohomish Counties, WA, Santa Clara, Santa Cruz, Stanislaus, Monterey and

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–32

Decided: February 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 116993 (Sub-4), filed February 1, 1982. Applicant: CITY HAUL, INC., 705 E. 2nd St., Cincinnati, OH 45202. Representative: Richard Rueda, 135 N. 4 St., Philadelphia, PA 19106, (215) 627–1925. Transporting *general commodities* (except classes A and B explosives and household goods), between Cincinnati and Dayton, OH, on the one hand, and, on the other, Baltimore, MD, New York, NY, Norfolk, VA, and points in OH, IL, IN, KY, MI, MO, PA, WV and NJ.

MC 145102 (Sub-82), filed January 29, 1982. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under a continuing contract(s) with Bostrum-Warren, Inc., of Seattle, WA.

MC 154323 (Sub-3), filed February 1, 1982. Applicant: S L X TRANSPORT, INC., 1703 Highway Two, Duluth, MN 55810. Representative: E. L. Newville (same as applicant), (218) 624–0370. Transporting *such commodities* as are dealt in or used by tree farmers and wood converters, between points in AR, CA, FL, ID, IL, IN, KY, LA, MA, MN, MO, NJ AND PA, on the one hand, and, on the other, points in the U.S.

MC 159982 (Sub-1), filed February 1, 1982. Applicant: O.L. EXPRESS, LTD., Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *food and related products,* (1) between points in Kent County, RI, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TX and WI, and (2) between points in MA, on the one hand, and, on the other, points in IA, NE, and MO.

MC 160302, filed January 28, 1982. Applicant: THOMAS INDUSTRIES EXPRESS, INC., P.O. Box 769, 1700 Gilbert St., Hopkinsville, KY 42240. Representative: William H. Borghesani, Jr., 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting (1) *cloth fabric and piece goods,* between points in the U.S., under continuing contract(s) with Elk Brand Manufacturing Company, of Hopkinsville, KY; (2) *tool boxes, tool chests, fishing tackle boxes and fishing tackle chests,* between points in the U.S., under continuing contract(s) with Atkinson Manufacturing Company, of Ludington, MI: and (3) *plastic articles,* between points in the U.S., under continuing contract(s) with Nestier Corporation, of Dawson Springs, KY.

Volume No. OP3–030

Decided: February 19, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 107445 (Sub-42), filed February 5, 1982. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 W. Troy Ave., P.O. Box 33051, Indianapolis, IN 46203. Representative: K. Clay Smith (same address as applicant), (317) 783–9235. Transporting (1) *machinery,* (2) *metal products* and (3) *those commodities* which because of their size or weight requires the use of special handling or equipment, between points in Berkshire County, MA, Lowndes County, MS, Multnomah County, OR, Aiken County, SC, Shelby County, TN, and Rock County, WI, on the one hand, one the other, points in the U.S.

MC 111274 (Sub-82), filed February 8, 1982. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative Frederick C. Schmidgall (same address as applicant), (309) 266–9773. Transporting *lumber and lumber mill products,* between points in the U.S., under continuing contract(s) with Sprenger Midwest Inc., of Minneapolis, MN.

MC 135364 (Sub-51), filed February 5, 1982. Applicant: MORWALL TRUCKING, INC., Box 76C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *machinery,* between points in the U.S. under continuing contract(s) with Matsushita Electric Coropration of America of Fayetteville, TN.

MC 142064 (Sub-8), filed February 5, 1982. Applicant CAROLINA CARPET CARRIERS, INCORPORATED, P.O. Box 6, Williamston, SC 29697. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC, 29606, (803) 288–6000. Transporting *malt beverages, wine and brandy,* between points in the U.S., under continuing contract(s) with Acme Distributing Co. of Spartanburg, Inc., of Spartanburg, SC, Better Beer and Wine Company, of Greenville, SC Central Distributing Company, of Sumter, SC, Frank Distributing Co., Inc., of Anderson, SC, Southern Distributing Co., Inc., of Florence, SC, Southern Distributors of Spartanburg, Inc., of Spartanburg, SC, Stevens Corporation, of Myrtle Beach, SC, and Western Beverage Co., Inc., of Taylors, SC.

MC 147965 (Sub-5), filed February 4, 1982. Applicant: GUNTHER H. M. KLIESE, d.b.a. P & M ENTERPRISES, 10650 SW Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *textile mill products, rubber and plastic*

products, and metal products, between points in OR, WA and MT, on the one hand, and, on the other, points in OH, IN, IL, WI, MO, PA, NY, MA, GA, RI, NJ, NC, UT, CA and WA.

MC 147965 (Sub-6), filed February 11, 1982. Applicant: GUNTHER H. M. KLIESE d.b.a. P & M ENTERPRISES, 10650 SW Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *refractory materials, exothermics, fluxes, chemical compounds, mineral compounds, and steel mill and foundry materials, supplies and equipment* (except commodities in bulk), between points in OH, PA and IL, on the one hand, and, on the other, points in WA, OR and UT.

MC 148114 (Sub-1), filed February 8, 1982. Applicant: E. S. MARTINS TRUCKING, INC., R.D. #4, Box 344, Hanover, PA 17331. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *general commodities* (except classes A and B explosives), between points in PA, on the one hand, and, on the other, points in the U.S.

MC 150255 (Sub-3), filed February 11, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *alcoholic beverages* and *related mixes,* between points in the U.S., under continuing contract(s) with the Wyoming Liquor Commission, of Cheyenne, WY.

MC 150444 (Sub-6), filed February 10, 1982. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (Same address as above), (703) 734–2810. Transporting *glass and glass products, fibreboard, wood and wood products,* between points in the U.S., under continuing contract(s) with General Glass International Corp., of New Rochelle, NY.

MC 151014 (Sub-1), filed February 8, 1982. Applicant: WITTE ASSOCIATES, INC., d.b.a. WITTE TRAVEL, 7195 Thornapple River Dr., Ada, MI 49301. Representative: Curtis D. Jonker, 880 Union Bank Bldg., Grand Rapids, MI 49503, (616) 458–8833). As a *broker* at ada, MI in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in special and charter operations, between points in MI, on the one hand, and, on the other, points in the U.S.

MC 151534 (Sub-6), filed February 12, 1982. Applicant: R & D TRANSPORTATION CORPORATION, P.O. Box 1908, Des Moines, IA 50306. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309, (515) 283–2411. Transporting *lumber, lumber products, metal products, and building materials,* between points in the U.S. (except AK and HI).

MC 154265 (Sub-2), filed February 10, 1982. Applicant: MIKE WILLIAMS TRANSFER, INC., 2 Foxhurst Court, Manhasset Hills, NY 11040. Representative: Kenneth M. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374–4565, (212) 275–1000. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Sperry Corporation, of Fairfax, VA.

MC 156045 (Sub-2), filed February 8, 1982. Applicant: H. P. LEASING, INC., 44 Chandler Dr., Somerset, MA 02726. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043, (617) 749–6500. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Princess House, Inc. of No. Dighton, MA. Titleist Golf Division of Acushnet Co. of New Bedford, MA, Quality Carpet Inc. of Avon, MA, Poly-America Inc. of Grand Prairie, TX and Globe Manufacturing Company of Fall River, MA.

MC 156064 (Sub-1), filed February 9, 1982. Applicant: GENEVA AND JOHN NIXON, d.b.a. NIXON FREIGHT LINES, 3618 U.S. Route #42, Box 213, Mason, OH 45040. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *scrap metals* and *used railroad car parts,* between points in the U.S. (except AK and HI).

MC 160414, filed February 4, 1982. Applicant: MARTIN TRANSFER, INC., 908 Gemini, Houston, TX 77058. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768, (512) 476–6391. Transporting *metal products* and *Mercer commodities,* between points in NM and TX, on the one hand, and, on the other, points in AR, CO, LA, NM, OK and TX.

MC 160434, filed February 5, 1982. Applicant: R. S. LIQUID WASTE DISPOSAL, INC., 163 Pinnery Ave., Warwick, RI 02886. Representative: David F. Sweeney, 10 Jefferson Blvd., Warwick, RI 02888, (401) 785–0200. Transporting (1) *chemicals and related products,* and (2) *hazardous materials,* between points in ME, NH, VT, MA, RI, CT, NY, and NJ, on the one hand, and, on the other, Williamsburg, OH.

Note.—The certificate in this proceeding to the extent it authorizes the transportation of hazardous materials shall expire 5 years from the date of issuance.

MC 160444, filed February 5, 1982. Applicant: B & T TRUCK LINES, INC., 2224 No. Knox St., Chicago, IL 60637. Representative: Themis N. Anastos, 120 W. Madison St., Chicago, IL 60602, (312) 782–8668. Transporting *food and related products,* between points in IL, MS, IN, MI, MN, WI, OH, TN, KY, AR and MO.

MC 160484, filed February 8, 1982. Applicant: CAHILL & SONS TRANSPORT INC., 17 Deerfield Rd., Port Washington, NY 11050. Representative: Bruce J. Robbins, 18 E. 48th St., New York, NY 10017, (212) 755–9400. Transporting *malt beverages,* between points in NY and NJ, on the one hand, and, on the other, those points in the U.S. in and east of MI, WI, IL, KY, TN and MS.

MC 160525, filed February 10, 1982. Applicant: ELITE EXPRESS, 2449 Faithhome Rd., Ceres, CA 95307. Representative: Lillie Mello (same address as applicant), (209) 537–4869. Transporting *food and related products,* between points in OR, WA and AZ.

MC 160554, filed February 12, 1982. Applicant: M.C.J. COACH LINES, INC., 127 16 34th Ave., Flushing, NY 11368. Representative: John J. Logan (same address as applicant), (212) 424–4800. Transportating *passengers,* between points in CT, NY, and NJ, under continuing contract(s) with Paul Shenkman Associates, of New York, NY.

MC 160555, filed February 12, 1982. Applicant: ERWIN R. GRAESE, d.b.a. GRAESE AUTOMOTIVE, 2872 Madison Ave., Loveland, CO 80537. Representative: Richard S. Mandelson, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting (1) *lumber,* (2) *wood products,* and (3) *metal products,* between points in AZ, CA, CO, ID, IN, KS, MN, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, VA, WA, and WY.

MC 146724 (Sub-9), filed January 18, 1982, previously published in the **Federal Register** issue of February 2, 1982. Applicant: DEAN RAPPLEYE, INC., 7444 S. 2200 W., West Jordan, UT 8408. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *food and rlated products* (except commodities in bulk), (1) between Salem, OR, Kennewick, WA, points in Marion County, OR, Benton and Snohomish Counties, WA, Santa Clara, Santa Cruz, Stanislaus, Monterey and

Ventura Counties, CA, and Nez Perce County, ID, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MN, MO, NE, NV, NM, ND, OK, OR, SD, TX, UT and WA, and (2) between points in Salt Lake County, UT, on the one hand, and, on the other, points in CO, IA, KS, MN, MO, NE and SD. This republication corrects the territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5186 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-6 (Sub-109)]

Burlington Northern Railroad Co.; Abandonment in Kearney, Phelps and Harlan Counties, NE; Findings

The Commission has issued a certificate authorizing *Burlington Northern Railroad Company* to abandon its 14.58 mile rail line between Wilcox (milepost 24.50) and Huntley (milepost 9.92) in Kearney, Phelps and Harlan Counties, NE. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5184 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-72N)]

Conrail Abandonment Between Nanty Glo and East Dias, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Nanty Glo and East Dias in the Counties of Cambria and Indiana, PA, a total distance of 15.5 miles effective on January 26, 1982.

The net liquidation value of this line is $277,718. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5155 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-58N)]

Conrail Abandonment Between Warwick and New York/New Jersey State Line; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Warwick and the New York/Jersey State Line in the County of Orange, NY, a total distance of 2.8 miles effective on January 6, 1982.

The net liquidation value of this line is $178,008. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5156 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-65N)]

Conrail Abandonment Between Plains Junction and Pittston, Pa; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Plains Junction and Pittston in the County of Luzerne, PA, a total distance of 0.2 miles effective on January 26, 1982.

The net liquidation value of this line is $20,826. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5157 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-79N)]

Conrail Abandonment Between West Cresson and Lilly, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between West Cresson and Lilly in the County of Cambria, PA, a total distance of 1.7 miles effective on January 26, 1982.

The net liquidation value of this line is $33,744. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5158 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-81N)]

Conrail Abandonment at Potts Run, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Potts Run and the end of the line in the County of Clearfield, PA, a total distance of 1.4 miles effective on January 26, 1982.

The net liquidation value of this line is $13,412. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish and equitable

division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5159 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-86N)]

Conrail Abandonment Between Benjamin No. 10 Mine and Madera, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Benjamin No. 10 Mine and Madera in the County of Clearfield, PA, a total distance of 1.4 miles effective on January 26, 1982.

The net liquidation value of this line is $26,777. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5160 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-87N)]

Conrail Abandonment at Youngwood, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.6 and milepost 1.9 in Youngwood in the County of Westmoreland, PA, a total distance of 1.3 miles effective on January 26, 1982.

The net liquidation value of this line is $81,128. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5161 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-89N)]

Conrail Abandonment at Tarr, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 0.7 in Tarr in the County of Westmoreland, PA, a total distance of 0.7 miles effective on January 26, 1982.

The net liquidation value of this line is $69,541. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5162 Filed 2-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-92N)]

Conrail Abandonment at Connellsville, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 0.3 at Connellsville in the County of Fayette, PA, a total distance of 0.3 miles effective on January 26, 1982.

The net liquidation value of this line is $39,221. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5163 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-59N)]

Conrail Abandonment between Kingston and New Paltz, NY; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Kingston and New Paltz in the County of ULster, NY, a total distance of 14.6 miles effective on January 6, 1982.

The net liquidation value of this line is $220,201. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5179 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-25)]

Conrail Abandonment Between Carey and Berwick, OH; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Carey and Berwick in the Counties of Wyandot and Seneca, OH, a total distance of 6.8 miles effective on January 22, 1982.

The net liquidation value of this line is $246,873. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5180 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-67N)]

Conrail Abandonment Between Cochranton and Utica, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Cochranton and Utica in the County of Venango, PA, a total distance of 8.9 miles effective on January 26, 1982.

The net liquidation value of this line is $94,378. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5178 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-69N)]

Conrail Abandonment Between Dimeling and Madera, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Dimeling and Madera in the County of Clearfield, PA, a total distance of 16.7 miles effective on January 26, 1982.

The net liquidation value of this line is $190,504. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5176 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-70N)]

Conrail Abandonment Between Clearfield Junction and Dimeling, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Clearfied Junction and Dimeling in the County of Clearfield, PA, a total distance of 3.9 miles effective on January 26, 1982.

The net liquidation value of this line is $39,438. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5177 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-80N)]

Conrail Abandonment at Hillman, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 1.4 in Hillman in the Counties of Indiana and Jefferson, PA, a total distance of 1.4 miles effective on January 26, 1982.

The net liquidation value of this line is $62,977. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5172 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-94)]

Soo Line Railroad Company and Illinois Central Gulf Railroad Company, Exemption for Contract Tariff ICC-SOO-C-0017

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Soo Line Railroad Company (SOO) and the Illinois Central Gulf Railroad Company (ICG) filed a petition on February 12, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contract tariff ICC-SOO-C-0017 to become effective on March 5, 1982. The tariff was filed to become effective on March 15, 1982. The tariff provides for the joint movement of wheat from Duluth, Minnesota to destinations in Louisiana and Alabama.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 day's notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. In a supporting statement, the shipper states that in order to avoid shut-downs, it requires delivery of the wheat at its Venezuelan mills by April 1, 1982. Early implementation of the contract will insure that the rail shipments arrive by the expected sailing date. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners' contract tariff ICC-SOO-C-0017 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15

days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 22, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5182 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. American Maize-Products Co. and Bayuk Cigars, Inc.; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed consent decree and competitive impact statement have been filed with the United States District Court for the Middle District of Florida, Jacksonville Division, in the case of *United States* v. *American Maize-Products Company*, Civil Action No. 81–1232–Civ–J–M.

The complaint in this case alleged that the proposed acquisition of all of the cigar business assets of Bayuk Cigars Incorporated by Jno. H. Swisher & Son, Inc., a wholly owned subsidiary of American Maize-Products Company, would substantially lessen competition in the manufacture and sale of cigars in violation of Section 7 of the Clayton Act.

The proposed judgment would enjoin Bayuk for a period of five years from transferring any trade name or manufacturing facility used in its cigar business to American Maize-Products Company, Consolidated Cigar Company, Culbro Corporation, or American Brands, Inc., without prior approval from the Department of Justice; however, the decree would allow Bayuk to sell its Garcia y Vega brand and any manufacturing facilities and assets necessary to produce that brand to any cigar manufacturer other than Consolidated Cigar Company.

Public comment on the proposed judgment is invited within the statutory 60-day comment period. Comments should be directed to Alan L. Marx, Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530.

Joseph H. Widmar,

Director of Operations Antitrust Division.

U.S. District Court for the Middle District of Florida, Jacksonville Division

United States of America, Plaintiff v. *American Maize-Products Company and Bayuk Cigars, Inc.*, Defendants.

Civil No. 81–1232–Civ–J–M

Stipulation. Filed: February 12, 1982.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the plaintiff: William F. Baxter, *Assistant Attorney General;* Mark Leddy, Charles F. B. McAleer, Alan L. Marx, *Attorneys, U.S. Department of Justice, Antitrust Division.*

Steven C. Douse; Richard W. Pierce; David S. Moynihan; Philip M. Eisenstat; *Attorneys, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6485.*

For the defendants: Donald F. Turner, Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006, (202) 872–6000, *Attorneys for Bayuk Cigars Incorporated;* Barbara A. Mentz, Hall, McNicol, Hamilton, Clark & Murray, 220 East 42nd Street, New York, New York 10017, (212) 682–3060, *Attorneys for American-Maize Products Company.*

U.S. District Court for the Middle District of Florida, Jacksonville Division

United States of America, Plaintiff, v. *American Maize-Products Company and Bayuk Cigars, Inc.*, Defendants.

Civil No. 81–1232–Civ–J–M.

Final Judgment. Filed: February 12, 1982.

Plaintiff, United States of America, having filed its complaint herein on December 22, 1981, and defendants American Maize-Products Company ("American Maize") and Bayuk Cigars, Inc. ("Bayuk") having appeared, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment, and without this Final Judgment constituting any evidence against, or any admission by, any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed, as follows:

I

This Court has jurisdiction over the subject matter herein and the parties hereto. The complaint states a claim upon which relief may be granted against American Maize and Bayuk under section 7 of the Clayton Act, 15 U.S.C. 18, as amended.

II

As used in this Final Judgment:

(A) "Cigar" means a roll of tobacco wrapped in tobacco leaf or reconstituted tobacco weighing more than three pounds per thousand.

(B) "Cigar business" means the business of producing and selling cigars.

(C) "Manufacturing facility" means any plant used to manufacture cigars and all or substantially all of the equipment and machinery used to manufacture cigars in that plant.

III

The provisions of this Final judgment shall apply to Bayuk and to each of its directors, officers, employees, agents, subsidiaries, affiliates, successors and assigns and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Bayuk is hereby enjoined and restrained from selling or transferring, directly or indirectly, without prior approval from the Department of Justice, any trade name or manufacturing facility used in its cigar business to American Maize, Consolidated Cigar Company, Culbro Corporation, or American Brands, Inc., or any of their parents, subsidiaries, affiliates, or successors; provided, however, that Bayuk shall be permitted to sell the Garcia y Vega brand and any manufacturing facilities and assets necessary to produce that brand to any cigar manufacturer other than Consolidated Cigar Company.

(B) Bayuk shall supply the Department of Justice with a copy of any contract for the sale of the Garcia y Vega brand and related assets to any company named in subsection (A) of this Section IV, together with a written description of such assets, at least ten days in advance of the closing date of the transaction.

(C) With respect to any application for approval of the Department of Justice pursuant to subsection (A) of this section IV, Bayuk shall supply the Department of Justice with a copy of the proposed contract of sale together with all pertinent information relating thereto. The Department of Justice shall have fifteen days from the receipt of such application to request such additional information as may be necessary for it to make its decision thereon.

V

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege:

(A) Duly authorized representatives of the Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Bayuk made to its principal office, shall be permitted:

(1) Access during office hours of Bayuk to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Bayuk, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Bayuk and without restraint or interference from it, to interview officers, employees, and agents of Bayuk, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to Bayuk's principal office, Bayuk shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section V shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by Bayuk to plaintiff, Bayuk represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal Rules of Civil Procedure, and Bayuk marks each pertinent page of such material, "Subject to claim of protection under rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to Bayuk prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Bayuk is not a party.

VI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction, implementation or modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

VII

This Final Judgment will expire five years from its date of entry.

VIII

Entry of this Final Judgment is in the public interest.

Dated:————.

————,

United States District Judge.

U.S. District Court for the Middle District of Florida, Jacksonville Division

United States of America, Plaintiff, v. *American Maize-Products Co. and Bayuk Cigars, Inc.,* Defendants.

Civil No. 81-1232-Civ-J-M Competitive Impact Statement.

Filed: February 12, 1982.

This competitive impact statement, relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding, is filed by the United States pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

I. The Nature and Purpose of the Proceeding

This is an action brought under Section 7 of the Clayton Act, 15 U.S.C. 18, seeking to enjoin one cigar manufacturer from acquiring another. The defendants are American Maize-Products Company ("American Maize"), a Maine corporation with principal offices in Stamford, Connecticut, and Bayuk Cigars Incorporated ("Bayuk"), a Maryland corporation located in Fort Lauderdale, Florida.

Jno. H. Swisher & Son, Inc. ("Swisher"), a wholly-owned subsidiary of American Maize located in Jacksonville, Florida, is the second largest manufacturer of cigars in the United States by unit volume of sales and the third largest by dollar volume of sales. Its principal brands are King Edward and Swisher Sweets.

Bayuk is the fourth largest manufacturer of cigars in the United States by unit volume of sales and the fifth largest by dollar volume of sales. Its principal brands are Phillies and Garcia y Vega.

On December 21, 1981, the shareholders of Bayuk approved a plan for the complete liquidation of the company, to be completed within one year. As part of its plan of liquidation Bayuk agreed to sell substantially all of its cigar business assets to Swisher (or to another company formed by American Maize for the purpose of acquiring the Bayuk assets) for approximately $14.5 million. Bayuk's plan of liquidation provides for the sale of the company's cigar business assets to another buyer if the sale to Swisher is not consummated.

On December 22, 1981, the government filed a complaint alleging that the proposed acquisition by Swisher of Bayuk's cigar business assets would substantially lessen competition in the manufacture and sale of cigars in violation of Section 7 of the Clayton Act and asking that the acquisition be preliminarily and permanently enjoined. The defendants subsequently agreed to postpone the closing of the transaction pending a hearing on the government's application for a preliminary injunction. The parties reached an agreement settling the case before a hearing could be held on the application.

II. The Nature of the Alleged Violation

The complaint alleges that the appropriate market within which to assess the proposed acquisition's effect on competition is the manufacture (including importation) and sale of cigars throughout the United States. A cigar is defined as any roll of tobacco wrapped in tobacco leaf or reconstituted tobacco and weighing more than three pounds per thousand.

The government relied on market shares calculated both in units (individual cigars) and in dollars. Because cigars vary widely in price, and the proportion of cigars sold at each price level varies from one manufacturer to the next, a firm's share of the market may be very different as computed by these two methods. Although we believe units are generally the more reliable measure of competitive strength in this industry, the most complete and accurate picture of the industry's structure is obtained by using a combination of the two.

In unit sales, Swisher's market share for 1980 was 19.55%. Bayuk's market share was 7.67%. In dollars, the comparable figures are 10.54% for Swisher and 6.64% for Bayuk. The top four firms, as measured by unit sales, have approximately 69.8% of the market, the top eight 86.1%. Measured in dollar sales, the four-firm concentration ratio is 59.9%, and the eight-firm concentration ratio is 76.4%. The combined shares of Swisher and Bayuk amount to 27.22% in units and 17.18% in dollars, and would have resulted in post-acquisition four-firm and eight-firm concentration ratios of 76.9% and 87.7% in units and 66.6% and 79.1% in dollars.

The government believes that an increase of this magnitude in the level of concentration in the cigar industry would have resulted in a substantial lessening of competition in the manufacture and sale of cigars. Among the important factors supporting this conclusion are the companies' extensive overlap in the low-priced segment of the market, the steady decline in demand for cigars, the low probability of new entry, and the impracticality of increased importation of inexpensive cigars.

III. The Proposal for a Consent Judgment and its Anticipated Effect on Competition

The proposed consent decree by which the parties would settle this case permits Bayuk to sell its cigar business assets and complete its liquidation, but it minimizes the potential increase in concentration in the cigar industry by limiting the buyers to whom Bayuk may sell. Section IV(A) of the proposed decree prohibits Bayuk from selling or transferring any trade name or manufacturing facility used in its cigar business to any of the largest cigar manufacturers—Consolidated Cigar Company, American Maize, Culbro Corporation, or American Brands, Inc.—without prior approval from the Department of Justice. Section IV(A) contains an exception for Bayuk's Garcia y Vega brand and related assets, which may be sold to any cigar manufacturer other than the largest, Consolidated Cigar Company. The decree is to remain in effect for five years and will bind the purchasers of Bayuk's cigar business assets during that period.

In effect, the defendants have agreed that they will not go forward with the acquisition as it was originally structured. Bayuk will be allowed under the decree to attempt to negotiate a sale of its Garcia y Vega brand to

Swisher, but failing that it will be free to sell that brand to any cigar manufacturer other than Consolidated. Bayuk's Phillies brand cannot be sold to any of the largest cigar manufacturers without the consent of the Department of Justice.

The government relied on several factors in assessing the proposed decree's probable effect on competition and in concluding that it represented reasonable and adequate relief:

(1) The maximum increase in concentration in the cigar industry permitted under the decree is much smaller than would have occurred if the acquisition had gone forward in its original form. Given the characteristics of the market and the companies involved, it is unlikely to lead to a substantial lessening of competition.

(2) Phillies will be preserved as a competitive entity independent of the other major manufacturers.

(3) Continued litigation would not be a satisfactory alternative if Bayuk and Swisher voluntarily limited the transaction to Garcia y Vega.

A. Increase in Concentration

The Garcia y Vega brand accounts for approximately one-third of Bayuk's unit sales and one-half of its dollar sales. Standing alone, its 1980 market share would have been 2.57% in units and 3.34% in dollars. The comparable figures for Phillies would have been 5.10% in units and 3.14% in dollars. The market shares of the four largest manufacturers, excluding Bayuk, are as follows:

Manufacturer	1980 market share (units)	1980 market share (dollars)
Consolidated Cigar	[1] 24.82	[1] 26.56
Swisher	19.55	10.54
General Cigar (Culbro)	17.74	13.98
American Cigar (American Brands)	7.14	8.86

[1] Percent.

No other firm has as much as 4% of the market on either basis, and most of the remaining firms are significantly smaller on one dimension (units or dollars) than on the other.

A useful means of comparing the increases in concentration that would result from various dispositions of the Bayuk cigar business assets is the Hirshman-Herfindahl index, a measure of the level of concentration in a market calculated by adding the squares of the market shares of all companies in the market. The Hirschman-Herfindahl index for the cigar industry in 1980 was at least .1464 in units and .1190 in dollars. The original proposed acquisition would have increased these figures by .0300 and .0140, respectively. By comparison, Swisher's acquisition of Garcia y Vega would yield an increase of .0100 in units and .0070 in dollars. The comparable figures for Garcia y Vega and Culbro are .0091 in units and .0093 in dollars. a Sale to American Brands would increase the index by .0037 in units and .0059 in dollars. The maximum increase resulting from a sale of Phillies to one of the smaller manufacturers would be .0039 in units and .0018 in dollars, or .0023 in dollars and .0013 in units. An increase of .0100 in an moderately concentrated industry ordinarily would be considered significant.

Even in combination, the possible sales of Garcia y Vega and Phillies pursuant to the decree will produce a much smaller increase in concentration than the original transaction, and this assumes that Bayuk will in fact sell each brand to one of the largest manufacturers premitted under the decree. Alternative purchasers, either from outside the industry or from among the very small cigar manufacturers, would further lessen or even eliminate the increase in concentration.

This does not mean that increases in concentration of the magnitude possible under the decree are necessarily competitively benign. In another industry, or in other circumstances, the Department of Justice might oppose the acquisition of a company the size of Garcia y Vega by a competitor the size of Swisher or Culbro. Here, however, we believe that the risk of anticompetitive effect is acceptably low, in part because Garcia y Vega and Swisher compete primarily in different segments of the market.

There is general recognition that within the broader cigar market not all cigars compete equally with one another. Cigars of a particular size and price compete most directly with other cigars of similar size and price. The degree of substitutability, and hence of competition, decreases as the price differential between cigars increases.

Despite the wide range of prices for cigars, it would be difficult and possibly misleading to define discrete submarkets on this basis. There are no clear dividing lines between different price categories, and variations of size and shape affect patterns of substitutability in ways that may counteract apparent differences in price. Arbitrarily defined submarkets might obscure the meaningful competition that does exist between cigars in different price categories. Nevertheless, it is important in analyzing the broader cigar market to take account of the tendency for similarly-priced cigars to compete more vigorously with each other than with cigars selling for a substantially higher or lower price.

As originally structured, the acquisition would have combined Phillies, one of the largest-selling brands of inexpensive cigars, with Swisher, which produces only inexpensive cigars and is the largest seller in that segment of the market. The effect on competition, because of this direct overlap, would have been particularly acute.

Garcia y Vega cigars are generally more expensive than Phillies or the cigars sold by Swisher. The latter sell for thirteen cents each or less at retail. Suggested retail prices for Garcia y Vega run from seven cents to seventy-five cents, with most selling for more than fifteen cents each.

Although the Garcia y Vega brand does compete with the brands sold by Swisher, they compete less directly than brands in the same price range, and the significance of their combined shares in the overall market should be weighed accordingly. It Swisher is able to negotiate a purchase of only Garcia y Vega, it will thereby expand its production into the medium-priced segment of the market in which it is not now represented.

This analysis is applicable to Culbro, which has its greatest strength in the low-priced and premium segments of the market, though to a lesser degree, as it does have medium-priced brands. American Cigar is a strong competitor in the medium-priced segment but has a much smaller share of the overall market.

B. Preservation of Phillies as a Competitive Entity

A principal concern of the government in this lawsuit was that the number of significant competitors not be reduced because of Bayuk's desire to leave the industry. At present, the five largest cigar manufacturers control 76.9% of unit sales and 66.6% of dollar sales in the domestic market. The remainder is split among a multitude of small firms, many of which have limited product lines, regional or local sales territories, or both.

If Bayuk's cigar business and market share went entirely to one or more of the major manufacturers, the top five would have become the top four, and the market would be left with one less significant competitor. The resulting increase in concentration would almost certainly portend a loss of competitive vigor. Conversely, by insuring that the Phillies brand and manufacturing facilities are not sold to one of the major manufacturers, the decree guarantees that it will remain an independent and important presence in the market. If Phillies is sold to one of the smaller manufacturers, it will project that company into the top five in the industry, essentially replacing Bayuk as a major competitor. If sold to a new entrant or otherwise maintained as a separate entity, Phillies will still be large enough to have a meaningful impact on the market.

This assumes, of course, that Phillies would be independently viable (if not sold to an existing manufacturer) and that Bayuk will sell or maintain it as a going business. Bayuk currently manufactures its cigars in two plants. The entire Phillies line can be produced efficiently in a single plant, which we expect will be offered to the buyer of the Phillies brand. Obtaining additional manufacturing facilities in any event would not be difficult. The government is aware of no special impediments or disadvantages that would prevent Phillies' survival as a separate company.

The government believes that Bayuk's financial interest in maintaining Phillies as a valuable, saleable property is sufficient to guarantee that it will not be operated or disposed of in a way that would injure its standing as a viable competitor and thereby diminish its worth.

C. Alternatives to the Proposed Decree

If the government had rejected the proposed settlement, it is likely that Bayuk would have proceeded unilaterally to restructure its transaction with Swisher to cover only Garcia y Vega. The government's options then would have been to continue this case, challenging only the narrower acquisition, or to dismiss the original action and await the sale of Phillies before deciding if one or both of the transactions should be the subject of further litigation. Even if we

believed that Swisher's acquisition of Garcia y Vega itself was substantially anticompetitive, a case brought on that basis would be much more difficult to win than the present case and would require a greater commitment of resources.

The alternative of waiting for Bayuk to complete the sale of its cigar business assets, however, was even less satisfactory. Without the decree there would be no guarantee concerning the future disposition of Phillies. If Phillies subsequently were sold to one of the major manufacturers, the net effect, when considered with a sale of Garcia y Vega to Swisher, would have been very close to that of the original transaction. At that point, however, the sale to Swisher would have been consummated, and attacking the two acquisitions collectively would have been far more difficult.

On balance, therefore, the government believes the proposed decree represents a reasonable resolution of the case, one that minimizes the probability that Bayuk's liquidation will adversely affect the quality of competition in the cigar industry. The five-year term of the decree was deemed sufficient in light of the steady decline in demand for cigars and the industry's uncertain future.

IV. Remedies Available to Private Parties

Entry of the proposed consent judgment will have no effect on the rights of persons who may have been injured by the alleged violation. Private plaintiffs may sue for money damages or any other legal or equitable remedy. However, this judgment may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, 15 U.S.C. 16(a).

V. Procedures Available for Modification of the Proposed Consent Judgment

For a period of 60 days following the filing of the proposed consent judgment and its publication in the **Federal Register**, interested persons may submit written comments concerning the proposed judgment to Alan L. Marx, Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the government's response to each will be filed with the Court and published in the **Federal Register**. The government will carefully consider all comments to determine if there is any reason for withdrawing its consent to the proposed judgment, which it may do at any time before the decree is entered by the Court. The Court will retain jurisdiction over the judgment following its entry so as to permit any of the parties to apply for orders modifying or enforcing the decree.

VI. Alternatives Actually Considered

The complaint filed in this action requested that American Maize be enjoined from acquiring any interest in Bayuk's cigar business assets. This was the only other form of relief actually considered by the United States.

VII. Determinative Documents and Materials

There are no documents or materials that the government considered determinative in formulating the proposed judgment.

Dated:

Respectfully submitted,

Steven C. Douse, Richard W. Pierce, David S. Moynihan, Philip M. Eisenstat; *Attorneys, United States Department of Justice, Antitrust Division, Washington, D.C. 20530 (202) 724-6485.*

[FR Doc. 82-5112 Filed 2-25-82, 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-10,589]

Alees Shake Mill, Taholah, Washington; Revised Determination on Reconsideration

On November 25, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for former workers at the Alees Shake Mill, Taholah, Washington. This determination was published in the **Federal Register** on September 18, 1981 (46 FR 46426).

One of the petitioners claims that workers at Alees' sole customer were certified by the Department for trade adjustment assistance.

The Department found in its reconsideration investigation that the "contributed importantly" test of Section 222 of the Trade Act was met. The Department found that Alees' sole customer's workers were certified for trade adjustment assistance on October 14, 1981, TA-W-12,110. That customer purchased shakes from area shakemills for resale to brokers. The Department's survey of Alees' sole customer showed that it's customers reduced purchases of red cedar shakes and shingles while increasing imports of red cedar shakes and shingles in 1980 compared to 1979.

All production operations at Alees Shake Mill ceased in January 1980. U.S. imports of red cedar shingles, shakes, hips and ridges increased absolutely in 1979 compared to 1978 and increased relative to domestic production in 1979 and 1980 compared to the immediately respective years. The ratio of U.S. imports to domestic production of red cedar shakes and shingles in 1980 was 149.3 percent.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with red cedar shingles and shakes produced at Alees Shake Mill contributed importantly to the decline in sales or production and to the total or partial separation of workers and former workers at Alees Shake Mill in Taholah, Washington. In accordance with the provisions of the Trade Act of 1974, I make the following revised determinations:

All workers of Alees Shake Mill, Taholah, Washington who became totally or partially separated from employment on or after August 1, 1979 and before March 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5214 Filed 2-25-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-12,825]

American Handling Equipment, Inc., Campbell Hall, New York; Negative Determination Regarding Application for Reconsideration

By an application dated January 4, 1982, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to apply for Worker Adjustment Assistance in the case of workers and former workers of American Handling Equipment, Inc., Campbell Hall, New York. The determination was published in the **Federal Register** on December 29, 1981 (46 FR 62972).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that the Department's investigation was not complete enough to reject the worker petition since imports of forklifts and forklift parts contributed importantly to worker separations at the American Handling Equipment, Inc., Campbell Hall, New York.

The Department's review showed that the workers of American Handling do not produce an article within the meaning of Section 222(3) of the Act. Workers at American Handling sell, rent, repair and rebuild equipment and parts. The Department of Labor has consistently determined that the

performance of services does not constitute the production of an article as required by Section 222 of the Act. This determination has been upheld by the U.S. Court of Appeals. Therefore, workers of American Handling may be certified only if their separation was caused importantly by a reduced demand for their services by a parent firm, a firm otherwise related to American Handling by ownership or by a substantial degree of proprietary control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of American Handling in this case.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5215 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,598]

Andrew Bruce Fashions, L.T.D., New York, New York; Negative Determination Regarding Application for Reconsideration

By an application postmarked December 19, 1981, a former worker requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing men's suits at Andrew Bruce Fashions, L.T.D., New York, New York. The determination was published in the **Federal Register** on December 8, 1981 (46 FR 60072).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the baisis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

A former worker claims that imports for the past ten years have been adversely affecting employment in the industry as well as at Andrew Bruce. He questions why workers at Vincent Formal and Leisure Wear, a clothing contractor for Andrew Bruce were certified for trade adjustment assistance while workers at Andrew Bruce were declared ineligible for trade adjustment assistance.

The Department's review showed that the worker petition did not meet the increased import criterion of Section 222 of the Trade Act for the years 1979 and 1980. Andrew Bruce closed in January, 1981. U.S. imports of men's and boys' suits decreased absolutely and relative to domestic production in 1979 and 1980 compared to the respective previous years.

The Department sees little purpose in using import data up to ten years prior to the date of the workers' petition, which was October 27, 1980 in this case, since Section 223(b)(1) of the Act limits the Department to certifications of workers whose layoffs occurred no earlier than one year before the date of the petition. Therefore, more recent import changes would be significant.

Concerning the claim that workers of Vincent Formal and Leisure Wear, Inc. were certified eligible for trade adjustment assistance (TA-W-6188), the Department notes that these workers met all the group criteria for a worker certification but filed their petition more than a year earlier than did workers of Andrew Bruce and that investigation relied on somewhat earlier import data than the Andrew Bruce investigation.

The exhaustion of workers' unemployment insurance benefits would not provide a basis for group certification under the Act.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5216 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,713 Plant #12, Fond Du Lac, Wisconsin, TA-W-11,714 Plant #14, Stillwater, Oklahoma, TA-W-11,715 Plant #64, Oshkosh, Wisconsin, TA-W-11,716 Plant #30, St. Cloud, Florida, TA-W-11,717 Plant #37, Placida, Florida, TA-W-11,718 Plant #38A, Oshkosh, Wisconsin, TA-W-11,719 Plant #38, Oshkosh, Wisconsin, TA-W-11,720 Plant #33, Oshkosh, Wisconsin, TA-W-11,721 Plant #6, Oshkosh, Wisconsin]

Brunswick Corp., Marine Power Group; Negative Determination Regarding Application for Reconsideration

By an application dated December 16, 1981, counsel for the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to apply for Worker Adjustment Assistance in the case of workers and former workers producing outboard motors at all of Brunswick Corporation's Marine Power Group plants listed above except Plant #14 in Stillwater, Oklahoma. The determination was published in the **Federal Register** on November 17, 1981 (46 FR 56518).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appers on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

Counsel claims that the Department was inconsistent by using different time-frames in reaching its negative determinations for workers filing under the instant petitions and its certification for workers of the Marine Power Group who filed under petitions TA-W-7593-7602.

The Department's review shows that the instant worker petitions did not meet the increased import criterion of Section 222 of the Trade Act of 1974. U.S. imports of outboard motors decreased absolutely and relative to domestic production in 1980 compared with 1979. U.S. imports of sterndrive motors are negligible.

The Department sees little validity in the claim concerning the Department's inconsistency since the worker petitions which were certified by the Department were filed in an earlier time-frame when import data for only a partial period of 1980 were available. The instant petitions, however, were filed in late 1980 and the Department had complete 1980 data which showed that U.S.

production as well as imports of outboard motors declined. The Department notes that the earliest the worker separations began at the instant plants was March 17, 1980. It is also noted that production and sales of outboard motors by the Marine Power Group increased in quantity and value in the first six months of 1981 compared to the same period in 1980.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, C.D. this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5217 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Periods in the States of Alabama, Iowa, and Maryland

This notice announces the beginning of new Extended Benefit Periods in the States of Alabama, Iowa, and Maryland, effective on February 14, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determinations of "On" Indicator

The heads of the employment security agencies of the States of Alabama, Iowa, and Maryland have determined that the rate of insured unemployment in each State, for the period consisting of the week ending on January 30, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rates, so that for that week there was an "on" indicator in each State.

Therefore, new Extended Benefit Periods commenced in these States with the week beginning on February 14, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the States of Alabama, Iowa, and Maryland, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on February 18, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-5226 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,952]

Gastrans, Inc., Stamford, Connecticut; Negative Determination Regarding Application for Reconsideration

By an application dated December 31, 1981, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Gastrans, Inc., Stamford, Connecticut. The determination was published in the Federal Register on December 8, 1981 (46 FR 60072).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

One of the petitioners claims that more ships could have been built had it not been for the impact of "foreign competition". The petitioner also asserts that inspection is a part of the normal production and that the worker's firm is Lachmar, not Gastrans, Inc. Two of the petitioners were inspectors; the third was a port engineer.

The Department's review reveals that the worker petition did not meet the "contributed importantly" test of the Trade Act of 1974. Workers at Gastrans are engaged exclusively in providing a service and perform no production operations. Gastrans is a wholly owned subsidiary of Moore McCormack Resources. Moore McCormack entered into a partnership, called Lachmar, with General Dynamics, a shipbuilder and Eastern Panhandle, a marketer and distributor of natural gas, to own two LNG vessels built by General Dynamics. Gastrans is to operate the LNG vessels between Algeria and Lake Charles,

Louisiana. The two LNG vessels have not transported any LNG as yet.

The Department notes that the producer of the "articles", the two LNG vessels, in this case, is General Dynamics, the shipbuilder. The petitioners were all hired by Moore McCormack, not Lachmar, and loaned to the Gastrans project for their services. It is customary in the industry for paint and coatings and hull inspectors to be laid off after the completion of construction of a ship. The Department of Labor has consistently determined that the performance of services does not constitute the production of an article as required by Section 222 of the Act and this determination has been upheld by the U.S. Court of Appeals. Since workers at Gastrans do not produce an article they may be certified only if their separation was caused importantly by a reduced demand for their services by a parent firm, a firm otherwise related to the subject firm by ownership or by a substantial degree of proprietary control. In any case the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met in this case.

The further arguments of the petitioner are not altogether clear. By implication he maintains that foreign LNG shipbuilders have been an important cause of worker separations at General Dynamics (and consequently at Gastrans). He also apparently contends that the lack of LNG imports contributed to the same separations. However, neither situation—even if true—would provide an adequate basis for certifying Moore McCormack (Gastrans) workers. Moore McCormack and its subsidiaries Gastrans and Lachmar only provide a service. There is no evidence in the record that the petitioners were employees of General Dynamics. Petitioners were hired by and paid by Moore McCormack to provide various services.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5218 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-10,523]

Merck and Company, Inc.; Calgon Corp.; Neville Island Carbon Plant; Pittsburgh, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 22, 1981, published in the **Federal Register** on January 8, 1982 (47 FR 1060), applicable to all workers of the Calgon Corporation's Neville Island Carbon plant in Pittsburgh, Pennsylvania producing coconut based activated carbon. The Department also issued an Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 12, 1982. The amendment to cover layoffs which revised the impact date which occurred several weeks before the original impact date. The Notice of Amended Certification was published in the **Federal Register** on January 26, 1982 (47 FR 3647).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the amended certification. The additional information indicated that several layoffs occurred a few days after the termination date of February 1, 1981 set by the Department in the initial certification. Consequently, these layoffs were not covered by the certification.

The intent of the certification is to cover workers of Calgon Corporation who were affected by the decline in the sales or production of coconut-based activated carbon at the Neville Island carbon plant of the Calgon Corporation, which was related to increased import competition. The Notice of Amended Certification of January 12, 1982, therefore, is further amended to include a new termination date of February 10, 1981.

The certification applicable to TA-W-10,523 is hereby amended a second time and issued as follows:

All workers of Merck and Company, Inc., Calgon Corporation, Neville Island Carbon Plant, Pittsburgh, Pennsylvania engaged in the production of coconut-based activated carbon who became totally or partially separated from employment on or after August 1, 1980 and before February 10, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of February 1982.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 82-5219 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,889]

Midway Shake Co.; Tillamook, Oreg.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 10, 1981 in response to a worker petition received on August 4, 1981 which was filed on behalf of workers and former workers producing cedar shakes and shingles for Midway Shake Company, Tillamook, Oregon.

On August 28, 1979, all workers of Midway Shake Company, Tillamook, Oregon were certified eligible to apply for adjustment assistance benefits (TA-W-5654). The certification covered all employees separated on or after June 6, 1978, and on or before August 28, 1981. All production at Midway Shake ceased in July 1981, and all production workers were terminated at that time.

On August 4, 1981, the Office of Trade Adjustment Assistance received a petition filed by the Shingle Weavers' Union on behalf of workers at Midway Shake. Since the workers have all been laid off, and were covered by the previous certification, further investigation in this case would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 16th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-5220 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,765 and 12,766]

Norrwock Shoe Co.; Norridgewock, Maine, and Skowhegan, Maine; Negative Determination on Reconsideration

On December 24, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for former workers of the Norrwock Shoe Company in

Norridgewock and Skowhegan, Maine. This determination was published in the **Federal Register** on January 8, 1982 (47 FR 1062).

An official of the company, in his application for reconsideration, challenges the "contributed importantly" finding upon which the Department's denial is based. In support of his claim, he notes that the Department certified workers at three plants of the Norrwock Shoe Company in 1978. It is also asserted that had the Shoe Corporation of America (SCOA), the parent company of Norrwock, closed the instant Norrwock plants in 1978 instead of trying to keep them operating, the workers would have been certified. Lastly, in support of the company official's claim, it is asserted that SCOA decreased its purchases from Norrwock Shoe in every year since 1978 and increased its imports.

The Department's review shows that the worker petition did not meet the "contributed importantly" test. The Department's survey of Norrwock's parent company and largest customer, SCOA, showed that SCOA increased purchases of men's, women's, boys' and misses' dress and casual shoes manufactured at domestic sources in 1980 compared to 1979. The survey also showed that SCOA decreased purchases of imported men's, women's, boys' and misses' dress and casual shoes in 1980 compared to 1979 and between the February through July period of 1981 compared to the same period in 1980. The Norrwock Shoe Company had increased sales and production of all footwear in 1980 compared to 1979. Workers are not identifiable by product line.

The Department notes that most of Norrwock's non-affiliated customers showed increased purchases of footwear from Norrwock in 1980 compared to 1979. SCOA officials indicated that most of the footwear purchases formerly purchased from Norrwock will be from domestic firms.

On reconsideration, the Department found that SCOA did not increase its import reliance in 1981 compared to 1980. Further, in value terms, SCOA reduced its import purchases in 1981 compared to 1980 and increased its domestic purchases.

Concerning the certification of workers at three other Norrwock plants in 1978 (See TA-W-2339 and 3541) it should be noted that the certification criteria are tested against each petitioning worker group. At that time the Norridgewock and Skowhegan, Maine plants (plants #1 and #12, respectively) did not meet the significant employment decrease criterion of the Trade Act. SCOA's decision to continue to operate these Norrwock Shoe Company plants a few years longer than the others would not provide an adequate basis for trade adjustment assistance.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to former workers of the Norridgewock (plant #1) and Skowhegan (plant #12) Maine plants of the Norrwock Shoe Company.

Signed at Washington, D.C., this 12th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5221 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,288]

P. F. Industries, Inc.; Bristol, R.I.; Negative Determination Regarding Application for Reconsideration

By an application dated December 11, 1981, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing athletic and protective footwear at the Bristol, Rhode Island plant of P.F. Industries, Inc. The determination was published in the **Federal Register** on November 17, 1981 (46 FR 56518).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims in its application for reconsideration that the company's principal customer of athletic footwear reduced purchases from P.F. Industries because of increased imports of other firms. It is also claimed that the closing of the Bristol, Rhode Island plant because of the reduced purchases of athletic footwear from P.F. Industries' principal customer caused the loss of its protective footwear sales.

The Department's review showed that the worker petition did not meet the increased import criterion or the "contributed importantly" test of Section 222 of the Trade Act of 1974. The Bristol, Rhode Island plant closed on January 30, 1981. The Department's survey of customers showed that customers representing a major portion of P.F. Industries' athletic footwear sales in 1980 increased their purchases from P.F. Industries in 1980 compared to 1979. Customers purchasing athletic footwear from P.F. Industries reduced such purchases from all sources in 1981 compared to 1980 with P.F. Industries' principal customer increasing its own athletic shoe production. In determining whether the "contributed importantly" test is met the Department generally surveys the customers of the petitioning workers' firm rather than other domestic firms who are not customers because of the absence of a direct effect on the petitioning workers' firm.

The closing of the protective footwear line even if it was a consequence of the loss of orders from P.F. Industries' principal customer of athletic footwear would not provide a basis for certification. Further, U.S. imports of rubber and plastic protective footwear declined absolutely and relative to domestic production in 1980 compared to 1979. P.F. Industries' sole customer of protective footwear does not purchase any such footwear from foreign sources.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5222 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,644]

Treiber Brothers, Inc.; Brooklyn, N.Y.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 27, 1981, in response to a worker petition received on April 21, 1981, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Treiber Brothers, Incorporated, Brooklyn, New York.

The petitioner has requested that the petition be withdrawn. Consequently,

further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 17th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-5233 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,173]

Kaye Coat Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 11, 1982, in response to a worker petition received on December 29, 1981, which was filed on behalf of workers at Kaye Coat Company, Passaic, New Jersey.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-11,970). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 12th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-5233 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-82-1]

Occupational Exposure to Lead, New Trigger Levels for Medical Removal Protection

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: (1) Notice of applications for temporary variance and interim order.

(2) Grants of interim order.

SUMMARY: This notice announces the applications of 21 companies for temporary variance and interim order from the standards prescribed in 29 CFR 1910.1025(k)(1)(i)(C) and 29 CFR 1910.1025(k)(1)(iii)(A)(3), Medical Removal Protection, of the Occupational Exposure to Lead Standard. It also announces the granting of the interim orders until a decision is rendered on the applications for temporary variance. The 21 companies were also granted these interim orders by letter.

DATES: The interim orders became effective for 14 companies on September 25, 1981 and for 7 companies on November 25, 1981, the dates of the letters granting the interim orders. The last date for interested persons to submit comments on the variance applications is March 29, 1982. The date for affected employers and employees to request a hearing is March 29, 1982.

ADDRESSES: Send written comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3662, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, at the above address, telephone (202) 523-7183, or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

U.S. Department of Labor—OSHA, 200 Mamaroneck Avenue, Room 403, White Plains, New York 10601

U.S. Department of Labor—OSHA, 2101 Ferry Avenue, Room 403, Camden, New Jersey 08104

U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104

U.S. Department of Labor—OSHA, Progress Plaza, 49 North Progress Avenue, Harrisburg, Pennsylvania 17109

U.S. Department of Labor—OSHA, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30367

U.S. Department of Labor—OSHA, Building 10, Suite 33, LaVista Perimeter Office Park, Tucker, Georgia 30084

U.S. Department of Labor—OSHA, Federal Building, Suite 1445, 100 West Capitol Street, Jackson, Mississippi 39201

U.S. Department of Labor—OSHA, Art Museum Plaza, Suite 4, 2809 Art Museum Drive, Jacksonville, Florida 32207

U.S. Department of Labor—OSHA, 1600 Hayes Street, Suite 302, Nashville, Tennessee 37203

U.S. Department of Labor—OSHA, 32nd Floor, Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Department of Labor—OSHA, 344 Smoke Tree Business Park, North Aurora, Illinois 60542

U.S. Department of Labor—OSHA, 228 N.E. Jefferson, 3rd Floor, Peoria, Illinois 61613

U.S. Department of Labor—OSHA, 218A Main Street, Belleville, Illinois 62202

U.S. Department of Labor—OSHA, USPO & Courthouse, Room 422, 46 East Ohio Street, Indianapolis, Indiana 46204

U.S. Department of Labor—OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor—OSHA, 1425 West Pioneer Drive, Irving, Texas 75061

U.S. Department of Labor—OSHA, Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401

U.S. Department of Labor—OSHA, 109 North Oregon, Room 910, El Paso, Texas 77901

U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri

U.S. Department of Labor—OSHA, 1150 Grand Avenue, 6th Floor, 12 Grand Building, Kansas City, Missouri 64106

U.S. Department of Labor—OSHA, 4300 Goodfellow Building, Room 105E, St. Louis, Missouri 63120

U.S. Department of Labor—OSHA, Overland-Wolf Building, Room 100, 6910 Pacific Street, Omaha, Nebraska 68106

SUPPLEMENTARY INFORMATION: On July 23, 1981, 46 FR 37891, the Occupational Safety and Health Administration (OSHA) denied petitions for stay of the new trigger levels for medical removal protection (MRP) under the lead standard for primary and secondary smelters and battery manufacturers. The petitions were based upon an assertion that the companies would be unable to fully comply with the MRP provisions because of the anticipated removal and resulting unavailability of certain employees under the 60/40 triggers of MRP. The petitions were denied because the data submitted by the industries involved did not support a conclusion that there was a general industry-wide inability to comply with the MRP provisions of the lead standard. Thus, the available evidence did not demonstrate a need for any industry-wide stays of the MRP triggers. However, OSHA did find that on a plant-by-plant basis, there were some feasibility problems. Thus, OSHA announced that the temporary variance and interim order mechanism, set forth in section 6(b)(6)(A) of the OSHAct and covered by regulations in 29 CFR Part 1905, would be used to afford relief to lead smelting and battery companies on a plant-by-plant basis, if warranted. Therefore, in the July 23, 1981 Federal Register notice, OSHA granted conditional interim orders to certain primary and secondary lead smelting and battery manufacturing companies who had already submitted data indicating severe problems in coming into compliance with the new triggers.

The notice incorporated the criteria for determining who would be eligible for the final grant of interim order. Nineteen companies listed in the July 23, 1981 **Federal Register** notice were granted final interim orders on October 2, 1981 (46 FR 48654).

OSHA also invited primary and secondary lead smelting and battery manufacturing companies whose plants met the following criteria, as set forth in the July 23, 1981 **Federal Register** notice, to apply for a temporary variance and an interim order:

(1) Plants where 10% or more of the total supervisory/maintenance/skilled employees have to be removed from lead exposure because of blood-lead levels between 60–70 μg/100g, and plants below the 10% figure that show by compelling evidence that this relief is needed.

(2) Eligible companies who submitted to OSHA by September 1, 1981, the following:

(a) An application for a temporary variance and an interim order;

(b) Written acceptance of the conditions and requirements of the interim order;

(c) Certification that affected employees had been notified of the variance application and of their right to petition the Assistant Secretary for a hearing; and,

(c) Certain data to support their application for temporary variance.

Where granted, the interim orders temporarily relieve those facilities from complying with the 60 μg/100g removal and 40 μg/110g return trigger levels, but obligate them to comply with the 70/50 μg/100g triggers, all other provisions of the lead standard, and the conditions and requirements of the order.

Notice of Applications

Notice is hereby given that 21 companies have made application pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance, and an interim order pending a decision on the variance, from the following medical removal protection (MRP) provisions of the lead standard:

29 CFR 1910.1025(k)(1)(i)(C) which states that an employer shall remove an employee from work having an exposure to lead at or above the 30 μg/m³ action level on each occasion that a periodic and a follow-up blood sample test indicate that the employees blood-lead is at or above 60 μg/100g of whole blood; and,

29 CFR 1910.1025(k)(1)(iii)(A)(3) which states that an employer shall return the employee to his or her former job status when two consecutive blood sampling tests indicate that the employee's blood-lead is at or below 40 μg/100g of whole blood.

The purpose of the standards is to provide temporary medical removal for a worker with substantially elevated blood/lead levels.

The name and address of each plant that will be affected by the applications are as follows:

Primary Smelters

Amax Lead Company of Missouri, Boss, Missouri 65440
ASARCO Incorporated, P.O. Box 1111, El Paso, Texas 79999

Secondary Smelters

East Penn Manufacturing Company, Incorporated, Deka Road, Lyon Station, Pennsylvania 19536
General Battery Corporation, Spring Valley Road, Reading, Pennsylvania 19604
Gould Incorporated, Metals Division, 555 Farnan Street, Omaha, Nebraska 68101
Gould Incorporated, Metals Division, P.O. Box 268, Kempter Road, Route 84 South, Savanna, Illinois 61074
Gould Incorporated, Metals Division, P.O. Box 250, South 5th Street, Frisco, Texas 75034
Murph Metals, Incorporated, A Subsidiary of RSR Corporation, 2820 North Westmoreland, Dallas, Texas 75212
National Smelting and Refining Company Incorporated, 451 Bishop Street, NW, Atlanta, Georgia 30381
N. L. Industries, Penns Grove-Pedricktown Road, P.O. Drawer E, Pedricktown, New Jersey 08067
Refined Metals Corporation, A Corporation of Exide, 2640 Capitola Street, Jacksonville, Florida 32202
Refined Metals Corporation, A Corporation of Exide, 3700 South Arlington Road, Beech Grove, Indiana 46107
Refined Metals Corporation, A Corporation of Exide, 257 West Mallory Avenue, Memphis, Tennessee 38109
Revere Smelting and Refining, Incorporated (RSR), R.D. #2, Ballard Road, Middletown, New York 10940
RSR Quemetco, Incorporated, A Subsidiary of RSR Corporation, 7870 West Morris Street, Indianapolis, Indiana 46241
Seitzinger Lead Smelters and Reviners, Incorporated, 1401 West Paces Ferry Road, Suite D–211, Atlanta, Georgia 30327
Taracorp Industries, 16th and Cleveland, Granite City, Illinois 62040

Battery Manufacturers

Chloride Batteries (Main Plant), Joy Road, Columbus, Georgia 31902
Chloride Batteries (Satellite Plant), Joy Road, Columbus, Georgia 31902
Chloride Batteries, 250 Ellis Avenue, Florence, Mississippi 39073

Other Industry

Eagle-Picher Industries, Incorporated, Chemicals and Fibers Division, P.O. Box 550, Joplin, Missouri 64801

The applicants certify that employees who would be affected by the variance have been notified of the applications by providing copies to their authorized employees' representatives, and by posting copies at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing. The applicants further certify that they accept the conditions and requirements of the interim order published in the **Federal Register** of July, 23, 1981, which obligates them to continue to comply with 70/50 μg/100g triggers in § 1910.1025 paragraphs (k)(1)(i)(B) and (k)(1)(iii)(A)(2) and all other provisions of the lead standards, in lieu of complying with the present 60/40 μg/100g triggers. In addition, each applicant has submitted all of the data requested in support of each application for temporary variance.

Regarding the merits of the applications, the applicants contend that the implementation of the new 60 μg/100g removal and 40 μg/100g return triggers of the lead standard is infeasible because of the following reasons:

(1) The 60/40 triggers will require for the first time, the removal of many "supervisory" and "highly skilled" employees whose blood-lead levels allegedly tend to fall in the 60–70 μg/100g range;

(2) Their removal will be prolonged beyond OSHA's original expectations in order for their blood-leads to drop to the 40 μg/100g return level;

(3) Since these employees are highly paid, crucially positioned, and extremely difficult to replace, putting them on MRP not only will be costly, but also can result in reduced production and a less safe and healthful workplace; and,

(4) The 60/40 triggers will require the removal of many production workers as well, thus adding to the cost of MRP. In combination, these factors assertedly will make implementation of the new triggers infeasible.

Copies of the applications for variance will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and

arguments relating to the application not later than March 29, 1982. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than March 29, 1982, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grants of Interim Order

It appears from the applications and supporting data that interim orders are necessary to prevent undue hardship on the applicants and their employees pending decisions on the variance. Therefore, it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in the Secretary of Labor's Order No. 8–76 (41 FR 25059), and in 29 CFR Part 1905, that the plants listed above are hereby authorized to comply with the requirements of the interim order set forth below, with respect to their supervisory, skilled, and maintenance employees, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(1)(i)(C) and 29 CFR 1910.1025(k)(1)(iii)(A)(3). All other provisions of the lead standard are unaffected by this order and therefore must be complied with in conjunction with the terms of this order.

The terms of the interim order are as follows:

(1) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, employers shall perform blood-lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood-lead level at or above 40 $\mu g/100g$ and who is exposed to lead above the action level of 30 $\mu g/m^3$.

(2) Employers shall remove and return all employees with blood-lead levels at or above 70 $\mu g/100g$ in accordance with the provisions of §§ 1910.1025(k)(1)(i)(B) and 1910.1025(k)(1)(iii)(A)(2) of the lead standard, except that removal shall be to areas where lead exposure is below 30 $\mu g/m^3$.

(3) For employees with blood-lead levels between 60–70 $\mu g/100g$, who work in jobs having airborne lead exposure at or above 30 $\mu g/m^3$, the employer shall provide:

(a) A personal consultation with a licensed physician every two months; and,

(b) A comprehensive medical examination by a licensed physician every six months.

(4) After both the personal consultation and the comprehensive medical examination, the physician shall make a written determination as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. If the employee is determined to have such a condition, he or she shall be removed from work having an exposure to lead at or above 30 $\mu g/m^3$.

(5) For employees with blood-lead levels at or above 60 $\mu g/100g$ who are working in areas with air-lead levels at or above 30 $\mu g/m^3$, respirator usage shall be mandatory during the entire workshift.

(6) For all employees with blood-lead levels at or above 60 $\mu g/100g$ who need not be removed under the terms of this order, the employer shall make an immediate inspection and evaluation of:

(a) The lead-related work practices affecting the employee;

(b) The employee's respirator usage; and,

(c) The use and availability of hygiene facilities, and the employee's relevant personal hygiene habits.

Based on that inspection and evaluation, the employer shall take all reasonable and appropriate corrective steps in these regards to reduce the employee's absorption of lead.

(7) The employer shall agree to allow OSHA to inspect its premises in connection with this variance application and this interim order.

EFFECTIVE DATES: This order became effective for the following plants on September 25, 1981:

Amax Lead Company of Missouri
ASARCO Incorporated (El Paso Plant)
Chloride Batteries (Main Plant Columbus)
Chloride Batteries (Satellite Plant, Columbus)
Chloride Batteries (Florence Plant)
East Penn Manufacturing Company, Incorporated
General Battery Corporation
Gould Incorporated (Savanna Plant)
Gould Incorporated (Frisco Plant)
N. L. Industries
Refined Metals Corporation (Jacksonville Plant)
Refined Metals Corporation (Beech Grove Plant)
Refined Metals Corporation (Memphis Plant)
Seitzinger Lead Smelters and Refiners, Incorporated

This order became effective for the following plants on November 25, 1981:

Eagle-Picher Industries, Incorporated
Gould Incorporated (Omaha Plant)
Murph Metals, Incorporated
National Smelting and Refining Company, Incorporated
Revere Smelting and Refining, Incorporated
RSR Quemetco, Incorporated
Taracorp Industries (Granite City Plant)

The above companies shall give notice of this grant of interim order to all affected employees by the same means required to be used to inform them of the application for variance.

The Assistant Secretary may revoke this order at any time if the applicant does not comply with any requirement of the order or the relevant standards, or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the applications for variance.

Signed at Washington, D.C., this 19th day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–5237 Filed 2–25–82; 8:45 am]

BILLING CODE 4510–26–M

Washington State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington State plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as those which are presently or will, in the future, be promulgated under section 6 of the Act. By letter dated August 27, 1980 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted Washington Administrative Order No. 80–15, safety standard for Logging. This State initiated standard, which is contained in

WAC Chapter 296–54 became effective as a permanent standard on September 18, 1980.

By letter dated March 17, 1981, illustrations and editorial amendments, Washington Administrative Order 81–3, to this standard were submitted to the Regional Administrator. This amendment became effective March 11, 1981.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that there is no comparable Federal standard and that, therefore, the State standard exceeds Federal requirements.

As a result of discussions with the State, Region X requested additional background on paragraph WAC 296–54–557–19 that relates to the wearing of seat belts. The State has provided Region X with background information justifying that seat belts need not be worn in certain cases when the safety of the operator is jeopardized by limiting his escape and immediate movement in emergency situations. The rationale for this rule is prudent and Region X, OSHA, approves the Logging Standard.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504; and the Technical Data Center, Room N2349R, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is one for which there is no comparable Federal standard and therefore the State standard exceeds the Federal standards.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

The decision is effective February 26, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 18th day of June 1981.

Richard L. Beeston,

Acting Regional Administrator.

[FR Doc. 82–5234 Filed 2–25–82; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued the periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 4, No. 3). The release date is February 22, 1982.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

This report to Congress is for the third calendar quarter of 1981. The report identifies the occurrences or events that the Commission determined were significant and the remedial actions that were undertaken. The report states that the following incidents or events were determined by the Commission to be significant and reportable.

1. There were two abnormal occurrences at the nuclear power plants licensed to operate. One involved a misalignment of a high head safety injection isolation valve. The other involved a failure of the high pressure safety injection system.

2. There were two abnormal occurrences at other licensee facilities. Both involved calculated radiation exposures in excess of 10 CFR 20 limits.

3. There were two abnormal occurrences reported by the Agreement States. One involved excessive radiation doses to hospital patients. The second involved overexposure of a radiographer and two barge crew members.

The report to Congress also contains updating information on two abnormal occurrences reported in previous reports.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW, Washington, D.C. or at any of the more than 120 Local Public Documents Rooms throughout the country. Single copies of the report, designated NUREG–0090, Vol. 4, No. 3, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, on or about March 8, 1982.

A year's subscription to the NUREG–0090 series publication, which consists of four issues, is available from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Microfiche of single copies of the publication are also available from this source.

Dated at Washigton, D.C., this 22nd day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–5227 Filed 2–25–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 45 and 68 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facility) located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revised the Technical Specifications to require that, for radioactive effluent release rate recordkeeping, the licensee employ a calendar year approach in lieu of a 12 consecutive month approach.

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 in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required

since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the 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 the amendments.

For further details with respect to this action, see (1) the application for amendment dated January 15, 1982, (2) Amendment No. 45 to License No. DPR-71 and Amendment No. 68 to DPR-62, 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. 20555, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. 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, Md., this 19th day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-5228 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 84 and 83 to Facility Operating Licenses Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Units Nos. 3 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments modify the definition of "Refuel Mode" in the Definition section of the TSs.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 7, 1981, (2) Amendment No. 84 to License No. DPR-44 and Amendment No. 83 to License No. DPR-56 and (3) the Commission's letter to Philadelphia Electric Company dated February 18, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. 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, Md., this 18th day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-5229 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on March 17, 1982, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will review Safety Parameter Display System (SPDS) design concepts and the status of plant diagnostic systems. NUREG-0799, "Draft Criteria for Preparation of Emergency Operating Procedures" will be discussed. Additionally, the Subcommittee will discuss with representatives from industry ACRS concerns related to the management, organization, staffing, and technical resources of utilities that operate nuclear power plants. Other areas to be discussed include: the training of Shift Technical Advisors (STAs) in the areas of plant systems and transient/accident analysis, and Senior Reactor Operator (SRO) training programs and qualification. Notice of the meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 17, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statement and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST

Dated: February 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-5230 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on March 19, 1982, Room 1046, at 1717 H Street, NW., Washington, D.C. The Subcommittee

will review the draft Commission Policy Statement on Safety Goals. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, March 19, 1982—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on request for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Federal Employee, Mr. J. Michael Griesmeyer (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST. The Designated Federal Employee for this meeting is Mr. Gary Quittschreiber.

Dated: February 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–5231 Filed 2–25–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New Routine Use

AGENCY: Office of Personnel Management.

ACTION: Proposal for a new routine use to be added to an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office's Civil Service Retirement and Insurance Records System (OPM/Central–1). This routine use, once in effect, will permit the discretionary disclosure of data from the Office's Civil Service Retirement and Insurance File to agencies and organizations that provide Federal assistance to employees of the Federal government. The disclosure of this information will be used only for duly authorized matching programs.

COMMENT PERIOD: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before March 29, 1982.

ADDRESS: Address comments to: Assistant Director for Pay and Benefits Policy, Office of Personnel Management (Room 4351), 1900 E Street, NW., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Glass, Chief, Technical Analysis Division, Office of Pay and Benefits Policy, Compensation Group, (202) 632–9677.

SUPPLEMENTARY INFORMATION: Recent reviews of various Federal assistance programs have indicated that some Federal retirees may have improperly received government assistance, or have outstanding debts that are not being repaid to the Federal government. Specifically, the improper receipt of government assistance in the U.S. Department of Agriculture's Food Stamp and the Veterans Administration's Compensation and Pension programs may be based upon fraudulently prepared applications which fail to disclose Federal employment. In addition, delinquent repayment of debts and defaulted loans by Federal employees and retirees have been identified in Health and Human Service's student loan and the Veterans Administration's educational assistance programs. The President's Council on Integrity and Efficiency (PCIE) believes that it is prudent to identify Federal employees and retirees, on a government-wide basis, who have improperly received benefits or have delinquent debts.

The objectives of this part of the PCIE project are twofold: (1) To identify Federal employees or retirees who may be erroneously or fraudulently receiving government payments, and (2) to identify Federal employees or retirees who are indebted to the government and then to initiate appropriate collection actions.

The most efficient way of comparing individuals who are recipients of various Federal assistance programs with those who are retired Federal civilian employees is for OPM to provide an extract of its Retirement Annuity Master File (RETF) with various relevant data elements to the agencies conducting these various assistance programs. (These agencies and programs are cited below and the data provided by OPM will be strictly limited to that listed).

The disclosure of individual data from the RETF to these agencies will be only for the purpose of conducting matching programs. The RETF is part of the OPM/Central–1 system of records. The matches will be conducted in accordance with the Office of Management and Budget's Supplemental Guidance for Matching Programs (44 FR 23138; April 18, 1979).

During OPM's participation in the formulation of this matching project, it was the Office's position that information could be disclosed from the RETF only if the various recipient agencies agreed to strictly adhere to OMB's Matching Guidelines. The agencies cited below will be required to submit written requests for the Office's information, including written assurance by the agency Inspector General that the privacy concerns expressed in the Matching Guideline will be followed.

Information on individuals that may be disclosed to the various matching agencies through this routine use includes: Name, social security number, date of birth, sex, OPM claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address and zip code. The Office retains the authority under the proposed routine use to withhold data from a requesting agency if it is believed that the particular specific data elements requested are not germane to the particular benefit program.

Upon receipt of this information or a portion thereof, and compliance with the OMB Guidelines on Matching Programs, the agencies will match it against their various files involving benefit recipients. For each match it is anticipated that the agencies will conduct a more thorough review of the recipient's status as to eligibility for assistance and the status of any debt that is owed to the Government.

Under Office regulations (5 CFR 831.106), the confirmation that an individual is or is not on the retirement rolls and if so, the type of annuity (employee or survivor) being paid is permitted without the data subject's prior approval. Thus, the routine use is necessary to permit the disclosure of the other data cited in the proposed routine use. Though these other data are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching purposes to these agencies under safeguards established jointly with the Office to protest against unauthorized disclosure.

Disclosure under the proposed routine use will permit the agencies to assure greater integrity of their various programs and is compatible with Federal personnel management responsibility for oversight of Federal employees' and retirees' conduct, with regard to the requirement that retirees not obtain financial benefits in a fraudulent manner, and pay their just obligations.

The Office fully recognizes that in this particular project authorized by this particular routine use, only the records of federal employees and retirees are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the numerous recipent programs administered by the Federal government. Care has been taken to determine the best approach to take to permit the Office's participation and also to comply with the intent of the Privacy Act. Analysis of these concerns was accomplished not only by the Office staff, but by various agencies of the Federal community. The result of this study was a clear determination that a matching program of this magnitude could be conducted without violating the Privacy Act if the conditions described in OMB's Matching Guidelines were followed.

The following agency programs which may be included in the PCIE computer matching project "Federal Employees Receiving Government Assistance," are listed below with the public law authorizing each program cited where appropriate.

I. Department of Agriculture

Food Stamp Program and Commodities In Lieu of Food Stamps. Pub. L. 95–113, The Food Stamp Act of 1977, as amended.

National School Lunch Program.

School Breakfast Program.

Special Milk Program.

Child Care Food Program.

Special Supplemental Food Programs.

Summer Food Service Programs. Pub. L. 79–396, National School Lunch Act of 1946, as amended; Pub. L. 89–642, Child Nutrition Act of 1966 as amended; and Pub. L. 95–313 (7 U.S.C. 612), Agriculture and Consumer Protection Act of 1973, as amended.

Elderly Feeding Program, Pub. L. 92–258 (42 U.S.C. 3030), Older Americans Act of 1965 and 1978, as amended; and Pub. L. 97–35, The 1981 Omnibus Reconciliation Act.

Rural Housing Support Programs.

Very Low-Income Housing Repair Programs.

Rural Low-Income Multi-Family Housing Program.

Rural Moderate-Income Multi-Family Housing Program.

Rural Moderate-Income Single Family Housing Loan Program.

Above Moderate-Income Single Family Housing Program.

Rural Low-Income Single Family Housing Program.

Rural Rental Assistance and Home Ownership Assistance Programs.

Farm Labor Housing Program. 63 Stat. 432, Title V of the Housing Act of 1949, as amended.

Farm Real Estate Loan Program.

Emergency Loan Programs.

Business and Industrial Loan Program.

Pub. L. 87–128, Consolidated Farm and Rural Development Act, as amended; and Pub. L. 95–334, Emergency Articultural Credit Adjustment Act of 1978, as amended.

II. Department of Education

The following Department of Education programs are authorized by Pub. L. 96–374, the Higher Education Act, Title IV. The pertinent parts of Title IV, applying to specific programs, are indicated for each.

Basic Educational Opportunity Grants (Pell Grants).

Supplemental Educational Opportunity Grants. Title IV (Part A).

Guaranteed Student Loan Program. Title IV (Part B).

National Direct Student Loan Program. Title IV (Part D).

III. Department of Health and Human Services

Aid to Families with Dependent Children (AFDC): Pub. L. 74–271 (42 U.S.C. Subchapter IV), Title IV–A of the Social Security Act of 1935, as amended by Pub. L.'s 92–603, 93–66, 93–233 and 95–216.

Black Lung Benefit Programs: Pub. L. 91–173, Federal Coal Mine Health and Safety Act of 1969, Title IV and Pub. L. 92–303, Black Lung Benefit Act of 1972, as amended by Pub. L. 95–239.

Social Security Administration: Master Beneficiary Record, Title II.

Social Security Administration: Supplemental Security Income Record, Title 16.

Pay, Leave, and Attendance Records: HHS/OS/ASPER, 5 U.S.C. 5501 etc.; 5 U.S.C. 5525 etc.; 5 U.S.C. 6301 etc.; 42 U.S.C. 201 etc.; Pub. L. 90–83.

Health Professionals Educational Assistance Act of 1963: Pub. L. 92–157 as amended by Pub. L. 94–484.

IV. Department of Labor

Federal Employees Compensation Program. Pub. L. 93–416, Federal Employees Compensation Act (FECA).

Longshoremen's and Harbor Worker's Compensation Program. Pub. L. 92–576, Longshoremen's and Harbor Workers' Compensation Act Amendment of 1972

Black Lung Benefits. Pub. L. 95–239, Black Lung Benefit Reform Act of 1977.

V. Department of Transportation

Title V Employee Protection Program. Pub. L. 93–236, Regional Railroad Reorganization Act of 1973, as amended by Pub. L. 96–448, Staggers Rail Act of 1980.

VI. Veterans Administration

The following VA programs are authorized by Title 38 U.S.C. Chapter 3, section 210(c)(1). Additional chapters of Title 38, applying to specific programs, are indicated for each.

Patient Medical Records—VA (24 VA 136). Chapter 17.

Veterans, Dependents, and Beneficiaries Compensation and Pension Records—VA (49 VA 21). Chapters 11, 13, 15, and 23.

Veterans, Dependents, Beneficiaries, and Armed Forces Personnel Education and Rehabilitation Records—VA (50 VA 22). Chapters 31, 32, 34, 35, and 36.

Veterans and Beneficiaries Identification and Records Locator System—VA (38 VA 28).

TARGET System—Compensation, Pension, Education, and Rehabiliation Records—VA (58 VA 21/22). Chapters 11, 13 15, 17, 23, 31, 32, 34, 35, 36.

Loan Guaranty Home, Condominium, Mobile Home Loan Applicant Records and Paraplegic Grant Application Records—VA (55 VA 26) Chapters 21 and 27

A match between the RETF and the agencies' program files is not an indication that any illegality has occurred; the match will alert the agencies, however, that further study is warranted to see if there is any impropriety.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

PROPOSED ROUTINE USE:

The following routine use will be adeded to the Office of Personnel Management's system of records (OPM/Central–1). The current notice of this system is published at 45 FR 78415 et seq. (November 25, 1980).

OPM/Central–1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

ff. To disclose information contained in the Retirement Annuity Master File including the name, social security number, date of birth, sex, Office of Personnel Management claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and zip code, of all Federal retirees to agencies participating in the "Federal Employees Receiving Government Assistance" Matching Project conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit program administred by agencies within the Federal government and to collect debts and overpayment owed to the Federal government.

* * * * *

[FR Doc. 82–5208 Filed 2–25–82; 8:45 am]
BILLING CODE 6325–01–M

Privacy Act of 1974; Proposed New Routine Use

AGENCY: Office of Personnel Management.

ACTION: Proposal for a new routine use to be added to an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office's General Personnel Records system (OPM/GOVT–1). This routine use, once in effect, will permit the disclosure of data from the Office's Central Personnel Data File (CPDF) to agencies and organizations that provide Federal assistance to employees of the Federal government. The disclosure of this information will be used for duly authorized matching programs.

COMMENT PERIOD: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before March 29, 1982.

ADDRESS: Address comments to: Assistant Director for Work Force Information, Office of Personnel Management (Room 5468), 1900 E Street, NW., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Sanet, Work Force Records Management Division, (202) 254–9790.

SUPPLEMENTARY INFORMATION: Recent reviews of various Federal assistance programs have indicated that some Federal employees may have improperly received government assistance, or have outstanding debts that are not being repaid to the Federal government. Specifically, the improper receipt of government assistance in the U.S. Department of Agriculture's Food Stamp and the Veterans Administration's Compensation and Pension programs generally based upon fraudulently prepared applications which fail to disclose Federal employment have been identified. In addition, delinquent repayment of debts and defaulted loans by Federal employees have been identified in Health and Human Service's student loan and the Veterans Administration's educational assistance programs. The President's Council on Integrity and Efficiency (PCIE) believes that it is prudent to identify Federal employees, on a government-wide basis, who have improperly received benefits or have delinquent debts.

The objectives of this part of the PCIE project are twofold: (1) To identify Federal employees or retirees who may be erroneously or fraudulently receiving government payments, and (2) to identify Federal employees or retirees who are indebted to the government and then to initiate appropriate collection action.

The most efficient way of comparing individuals who are recipients of various Federal assistance programs with those who are active Federal civilian employees is for OPM to provide an extract of its Central Personnel Data File (CPDF) tape with various relevant data elements to the agencies conducting these various assistance programs. (These agencies and programs are cited below and the data provided by OPM will be strictly limited to that listed).

The disclosure of individual data from the CPDF to these agencies will be for the purpose of conducting matching programs. The CPDF is part of the OPM/GOVT–1 system of records. The matches will be conducted in accordance with the Office of Management and Budget's Supplemental Guidance for Matching Programs (44 FR 23138; April 18, 1979).

During OPM's participation in the formulation of this matching project, it was the Office's position that information could be disclosed from the CPDF only if the various recipient agencies agreed to strictly adhere to OMB's Matching Guidelines. The agencies cited below will be required to submit written requests for the Office's information, including written assurance by the agency Inspector General that the privacy concerns expressed in the Matching Guidelines will be followed.

Information on individuals that may be disclosed to the various matching agencies through this routine use includes: Name, social security number, date of birth, sex, annualized salary rate, service computation date, separation date, handicap, veterans preference, retirement status, occupational series, position occupied, work schedule, agency identifier, agency subelement identifier, geographic location, special program identifier, and submitting office number. The Office retains the authority under the proposed routine use to withhold data from a requesting agency if it is believed that the particular data requested are not germane to the particular benefit program.

Upon receipt of this information or a portion thereof, and compliance with the OMB Guidelines on Matching Programs, the agencies will match it against their various files involving benefit recipients. For each match it is anticipated that the agencies will conduct a more thorough review of the recipient's status as to eligibility for assistance and the status of any debt that is owed to the Government.

Under Office regulations (5 CFR 294.702), the disclosure of the name, agency, salary, and duty station location (including agency identifier, agency subelement identifier, and submitting office number) is permitted without the data subject's prior approval. Thus, the routine use is necessary to permit the disclosure of the other data cited in the proposed routine use. Though these other data are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching purposes with these agencies under safeguards established by those agencies jointly

with the Office to protect against unauthorized disclosure.

Disclosure under the proposed routine use will permit the agencies to assure greater integrity of their various programs and is compatible with Federal personnel management responsibility for oversight of Federal employee's conduct, particularly with the requirment that employees conduct themselves in a proper manner, not obtain financial benefits in a fradulent manner, and pay their just obligations.

The Office fully recognizes that in this particular project authorized by this particular routine use, only the records of Federal employees are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the numerous recipient programs administered by the Federal government. Care has been taken to determine the best approach to take to permit the Office's participation and also to comply with the intent of the Privacy Act. Analysis of these concerns was accomomplished not only by the Office staff, but by various agencies of the Federal community. The result of this study was a clear determination that a matching program of this magnitude could be conducted without violating the Privacy Act if the conditions described in OMB's Matching Guidelines were followed.

The following agency programs which may be included in the PCIE computer matching project "Federal Employees Receiving Government Assistance," are listed below with the public law authorizing each program cited where appropriate.

I. Department of Agriculture

Food Stamp Program and Commodities In Lieu of Food Stamps. Pub. L. 95–113, The Food Stamp Act of 1977, as amended.

National School Lunch Program.

School Breakfast Program.

Special Milk Program.

Child Care Food Program.

Special Supplemental Food Programs.

Summer Food Service Programs. Pub. L. 79–396, National School Lunch Act of 1946, as amended; Pub. L. 89–642, Child Nutrition Act of 1966 as amended; and Pub. L. 95–313 (7 U.S.C. 612), Agriculture and Consumer Protection Act of 1973, as amended.

Elderly Feeding Program. Pub. L. 92–258 (42 U.S.C. 3030), Older Americans Act of 1965 and 1978, as amended; and Pub. L. 97–35, The 1981 Omnibus Reconciliation Act.

Rural Housing Support Programs.

Very Low-Income Housing Repair Programs.

Rural Low-Income Multi-Family Housing Program.

Rural Moderate-Income Multi-Family Housing Program.

Rural Moderate-Income Single Family Housing Loan Program.

Above Moderate-Income Single Family Housing Program.

Rural Low-Income Single Family Housing Program.

Rural Rental Assistance and Home Ownership Assistance Programs.

Farm Labor Housing Program. 63 Stat. 432, Title V of the Housing Act of 1949, as ameded.

Farm Real Estate Loan Program.

Emergency Loan Programs.

Business and Industrial Loan Program. Pub. L. 87–128, Consolidated Farm and Rural Development Act, as amended; and Pub. L. 95–334, Emergency Agricultural Credit Adjustment Act of 1978, as amended.

II. Department of Education

The following Department of Education programs are authorized by Pub. L. 96–374, the Higher Education Act, Title IV. The pertinent parts of Title IV, applying to specific programs, are indicated for each.

Basic Educational Opportunity Grants (Pell Grants).

Supplemental Educational Opportunity Grants. Title IV (Part A).

Guaranteed Student Loan Program. Title IV (Part B).

National Direct Student Loan Program. Title IV (Part D).

III. Department of Health and Human Services

Aid to Families with Dependent Children (AFDC): Pub. L. 74–271 (42 U.S.C. Subchapter IV), Title IV–A of the Social Security Act of 1935, as amended by Pub. L's. 92–603, 93–66, 93–233 and 95–216.

Black Lung Benefit Programs: Pub. L. 91–173, Federal Coal Mine Health and Safety Act of 1969, Title IV and Pub. L. 92–303, Black Lung Benefit Act of 1972, as amended by Pub. L. 95–239.

Health Professionals Educational Assistance Act of 1968: Pub. L. 92–157 as amended by Pub. L. 94–484.

IV. Department of Labor

Federal Employees Compensation Program. Pub. L. 93–416, Federal Employees Compensation Act (FECA).

Longshoremen's and Harbor Workers' Compensation Program. Pub. L. 92–576, Longshoremen's and Harbor Workers' Compensation Act Amendment of 1972.

Black Lung Benefits. Pub. L. 95–239, Black Lung Benefit Reform Act of 1977.

V. Department of Transportation

Title V Employee Protection Program. Pub. L. 93–236, Regional Railroad Reorganization Act of 1973, as amended by Pub. L. 96–448, Staggers Rail Act of 1980.

VI. Veterans Administration

The following VA programs are authorized by Title 38 U.S.C., Chapter 3, Section 210(c)(1). Additional chapters of Title 38, applying to specific programs, are indicated for each.

Patient Medical Records—VA (24 VA 136). Chapter 17.

Veterans, Dependents, and Beneficiaries Compensation and Pension Records—VA (49 VA 21). Chapters 11, 13, 15, and 23.

Veterans, Dependents, Beneficiaries, and Armed Forces Personnel Education and Rehabilitation Records—VA (50 VA 22). Chapters 31, 32, 34, 35, and 36.

Veterans and Beneficiaires Identification and Records Locator System—VA (38 VA 28).

TARGET System—Compensation, Pension, Education, and Rehabilitation Records—VA (58 VA 21/22). Chapters 11, 13, 15, 17, 23, 31, 32, 34, 35, 36.

Loan Guaranty Home, Condominium, Mobile Home Loan Applicant Records and Paraplegic Grant Application Records—VA 55 (VA 26) Chapters 21 and 27

A match between the CPDF and the agencies' programs is not an indication that any illegality has occurred; the match will alert the agencies, however, that further study is warranted to see if there is any impropriety.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

PROPOSED ROUTINE USE:

The following routine use will be added to the Office of Personnel Management's government-wide system of records (OPM/GOVT–1). The current notice of this system is published at 45 FR 78415 et seq. (November 25, 1980).

OPM/GOVT–1

SYSTEM NAME:

General Personnel Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

gg. To disclose information contained in the Central Personnel Data File including the name, social security

number, date of birth, sex, annualized salary rate, service computation date of basic active service date, separation or retirement date, reportable handicap, veteran's preference, retirement status, occupational series, position occupied, work schedule (full time, part time, or intermittent), agency identifier, geographic location (duty station location), standard metropolitan service area, special program identifier, submitting office number of all Federal employees to agencies participating in the "Federal Employee Receiving Government Assistance" Matching Project conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit program administred by agencies within the Federal government and to collect debts and overpayment owed to the Federal government.

* * * * *

[FR Doc. 82-5209 Filed 2-25-82; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Meeting and Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Thursday, March 18, 1982, from 2:00 p.m. to 5:00 p.m. at the Federal Home Loan Bank Board, Amphitheater, will involve a review and discussion of the current issues involving the trade policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act), information submitted by government officials under section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives, information the disclosure of which would be likely to significantly frustrate implementation of proposed government action, and information properly classified pursuant to Executive Order 12065 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Advisory Committee for Trade Negotiations will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-5201 Filed 2-25-82; 8:45 am]

BILLING CODE 3190-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the Philadelphia National League Club and The Phillies, a limited partnership, for an exemption from the bond/escrow and sale-contract requirements of section 4204(a) (1) (B) and (C) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. Two of these conditions are that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale, and that the contract of sale between the seller and the purchaser provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws from the plan within five years after the sale and does not pay its withdrawal liability. The PBGC is authorized to grant exemptions from these requirements. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before April 12, 1982.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for an exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

The Statute

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "Multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1001 *et seq.* As a result of the Multiemployer Act, an employer that withdraws, or partially withdraws, from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals occurring after April 28, 1980.

Section 4204 of ERISA, 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the

liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the sale-contract requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(A)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127 (1981)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Seciton 4204(c) ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance of exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a joint request from the seller, the Philadelphia National League Club (the "Club"), and the purchaser, The Phillies ("Phillies"), a limited partnership, (collectively referred to as the "Parties") for an exemption from the requirements of section 4204(a)(1)(B) and (C) of ERISA. In the request, the Parties represent, among other things, that:

1. The Major League Baseball Players Benefit Plan (the "Plan") is established and maintained pursuant to a collective bargaining agreement between the 26 professional major league baseball teams and the Major League Baseball Players Association.

2. The Club was a participating employer in the Plan.

3. The major league clubs have established the Major League's Central Fund (the "Central Fund") pursuant to the "Major League Agreement in re Major League's Central Fund." Under this Agreement, the revenues to fund the plan for all parricipating employers are received by the Office of the Commissioner of Baseball and are then remitted on behalf of the clubs in satisfaction of their pension liability arising under the Plan's funding agreement. In addition, other expenditures on behalf of all 26 clubs are made from the Central Fund. The revenue to fund the Plan is currently derived directly from (i) gate receipts from All-Star games, (ii) radio and television revenues from World Series, League Championship intradivision play-off and All-Star games, and (iii) certain other radio and television revenue (including foreign broadcasts) from regular and exhibition games.

4. The major league clubs are currently obligated to contribute the sum of $15,500,000 per year to cover both pension and welfare benefits; approximately $13 million of which is remitted to the pension plan for the current plan year. Each major league club is responsible for 1/26 of that amount. In 1980, the Central Fund paid $500,000 as pension contributions to the Plan on behalf of the Club.

5. The Parties entered into an agreement on November 1, 1981 for the sale of the Philadelphia Phillies baseball team. The final closing occurred on December 14, 1981.

6. The contract of sale provides that Phillies will have an obligation to contribute to the Plan for substantially the same number of contribution units as the Club.

7. The sales agreement further provides that unless the PBGC grants a variance, Phillies will post the bond or escrow required under section 4204(a)(1)(B) of ERISA. The amount of the bond/escrow would be $500,000.

8. In support of the variance request, the Parties state that "(t)he payment of the employer contributions directly to the Plan from the Central Fund deposits, and the traditional adequacy of the Central Fund deposits to meet the Fund requirements of the Plan, provide adequate assurance to the Plan and the PBGC that the employer contributions will be made when due. A change in team employer does not affect the obligation to fund the Plan with Central Fund deposits nor create the possibility that there will be difficulty in collecting Plan contributions from any new team employer."

9. The Parties have sent by certified mail, return receipt requested, a complete copy of this request to the Plan and the collective bargaining representative of the Club's former employees.

It is noted that the Parties provided financial information on the purchaser, but requested that such information be held confidential. PBGC finds it appropriate to grant the Parties' request for confidentiality, because the variance is being considered on the grounds of the information set forth above. PBGC also notes that it has previously dealt with a request very similar to the pending request, involving the Chisox Corporation, the Chicago White Sox Baseball Club, Inc. and the Artnell Company. On September 1, 1981, PBGC granted that request for a variance from the purchaser's bond and sale-contract requirements of section 4204 (see 46 FR 44948 (Sept. 8, 1981)).

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, April 12, 1982. All comments will be made a part of the record. Comments received, as well as the non-confidential portions of the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 22nd day of February 1982.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-5189 Filed 2-25-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 22, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

AmSouth Bancorporation—Common Stock, $1 Par Value (File No. 7–6160)
Argo Petroleum—Common Stock, $.10 Par Value (File No. 7–6161)
Caesars New Jersey, Inc.—Common Stock, $.10 Par Value (File No. 7–6162)
Dataram Corp.—Common Stock, $1 Par Value (File No. 7–6163)
Donaldson Co., Inc.—Common Stock, $5 Par Value (File No. 7–6164)
Dyco Petroleum Corp.—Common Stock, $.01 Par Value (File No. 7–6165)
Eastern Airlines, Inc. Warrants to Purchase One Common Share at $10 (Expires 1987) (File No. 7–6166)
First Atlanta Corporation—Common Stock, $5 Par Value (File No. 7–6167)
Gulfstream Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6168)
Liberty National Insurance Holding Co.—Common Stock, $2 Par Value (File No. 7–6169)
Mexico Fund, Inc.—Common Stock, $1 Par Value (File No. 7–6170)
NCNB Corporation—Common Stock, $2.50 Par Value (File No. 7–6171)
Pan American Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6172)
PennCorp Financial, Inc.—Common Stock, $.50 Par Value (File No. 7–6173)
Sealed Air Corp.—Common Stock, $.01 Par Value (File No. 7–6174)
Sun Banks of Florida, Inc.—Common Stock, $2.50 Par Value (File No. 7–6175)
Worldwide Energy Corporation—Common Stock, $.20 Par Value (File No. 7–6176)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 15, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–5196 Filed 2–25–82; 8:45 am]

BILLING CODE 8010–01–M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 22, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Caesars New Jersey Incorporated—Common Stock, $.10 Par Value (File No. 7–6144)
Dataram Corporation—Common Stock, $1 Par Value (File No. 7–6145)
MCO Resources, Inc.—Common Stock, $.01 Par Value (File No. 7–6146)
AmSouth Bancorporation—Common Stock, $1 Par Value (File No. 7–6147)
Barnett Banks of Florida, Inc.—Common Stock, $2 Par Value (File No. 7–6148)
Cray Research Inc.—Common Stock, $1 Par Value (File No. 7–6149)
Dyco Petroleum Corporation—Common Stock, $.01 Par Value (File No. 7–6150)
Ensource, Inc.—Common Stock, $.01 Par Value (File No. 7–6151)
First Atlanta Corporation—Common Stock, $5 Par Value (File No. 7–6152)
Gulfstream Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6153)
Liberty National Insurance Holding Co.—Common Stock, $2 Par Value (File No. 7–6154)
Mexico Fund, Inc.—Common Stock, $1 Par Value (File No. 7–6155)
Pan American Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6156)
Permian Basin Royalty Trust—Units of Beneficial Interest, No Par Value (File No. 7–6157)
Sullair Corporation—Common Stock, No Par Value (File No. 7–6158)
Sun Banks of Florida, Inc.—Common Stock, $2.50 Par Value (File No. 7–6159)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 15, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–5197 Filed 2–25–82; 8:45 am]

BILLING CODE 8010–01–M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 22, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Allegheny International Incorporated $11.25 Convertible Preferred (File No. 7–6177)
Anderson, Greenwood & Company Common Stock, No Par Value (File No. 7–6178)
Dorchester Gas Corporation Common Stock, $.10 Par Value (File No. 7–6179)
HRT Industries Incorporated Common Stock, $1 Par Value (File No. 7–6180)
Norstar Bancorporation Incorporated Common Stock, $5 Par Value (File No. 7–6181)
Tacoma Boatbuilding Company Common Stock, $1 Par Value (File No. 7–6182)
Williams Electronics Incorporated Common Stock, $.50 Par Value (File No. 7–6183)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 15, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5198 Filed 2-25-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18505; SR-OCC-82-2]

Options Clearing Corp.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

February 22, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 15, 1982, the Options Clearing Corporation ("OCC"), 200 S. Wacker Drive, Chicago, Illinois 60606, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend OCC Rule 1309, which relates to the settlement of options on certificates issued by the Government National Mortgage Association ("GNMA"). The proposal would permit settlement to be made with GNMA certificates that are drawn from no more GNMA pools than the number of exercised option contracts for which settlement is required to be made, provided that certificates from each pool have an aggregate remaining unpaid principal balance that is equal to, or a multiple of, $100,000 (plus or minus 2.5%). OCC, however, would continue to allow settlement to be made with GNMA certificates that meet the Public Securities Association's stricter standards for delivery on settlement of GNMA securities. *See* Public Securities Association, Standards for Delivery on Settlement of GNMA Securities. The proposal lessens the strict good delivery standards in Rule 1309(3) for deliveries out of participant proprietary accounts. By so doing, OCC would apply identical good delivery standards to all accounts. The proposed rule change also makes certain nonsubstantive amendments in OCC's good delivery rule.

OCC believes that the proposal is consistent with Section 17A of the Act because it promotes the prompt and accurate clearance and settlement of securities transactions by eliminating unnecessarily restrictive delivery requirements and by removing a substantial impediment to the development of the GNMA options market. Together, the changes should facilitate the development of an active and liquid odd-lot market in GNMA securities and facilitates participation in GNMA options by smaller investors.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before March 19, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-OCC-82-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies and, in particular, the requirements of Section 17A of the Act and the rules and regulations thereunder. The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. Approval of the proposed rule change at this time will enable OCC to complete its GNMA prospectus supplement with appropriate delivery rules prior to the scheduled commencement of trading in GNMA options. It is necessary for OCC to finalize its prospectus well in advance of that time so that copies can be printed and shipped to securities firms for distribution to the public before trading commences.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5194 Filed 2-25-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18500; SR-Phlx-81-20]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 22, 1982.

The Philadelphia Stock Exchange, Inc. ("Phlx") 1900 Market Street, Philadelphia, PA 19103, submitted on December 18, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to revise its listing fee schedule for stocks, warrants, bonds and similar securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18405, January 11, 1982) and by publication in the **Federal Register** (47 FR 2970, January 20, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commmission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5195 Filed 2-25-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12245; 812-4940]

Shearson FMA Municipal Fund; Filing of an Application for an Order of the Act Exempting Applicant

February 22, 1982.

Notice is hereby given that Shearson FMA Municipal Fund ("Applicant"), Two World Trade Center, New York, New York 10048, registered under the Investment Company Act of 1940 ("Act") as an open-end, management investment company, filed an application on August 11, 1981, and amendments thereto on February 4, 1982, and February 10, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act exempting the Applicant from the provisions of Section 12(d)(3) of the Act to the extent

necessary to permit the Applicant to acquire rights to sell its portfolio securities to brokers or dealers and from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the Applicant to value in the manner described in the application such rights acquired from banks, brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, shares of the Applicant will be offered only in connection with a Financial Management Account Program ("Management Account"). Applicant states that a Management Account will be a financial services account linking (1) a conventional securities margin account ("Securities Account"); (2) participation in one of three "money market" funds, one of which is the Applicant; (3) an American Express Gold Card ("Gold Card") provided by American Express Company; and (4) a checking privilege on an account maintained by Provident National Bank. Applicant states that any cash in a Management Account participant's Securities Account that is available on demand and transferable without giving rise to interest charges will be automatically invested in whichever "money market" fund the participant selects. Applicant further states that payment will be made to cover transactions involving use of the Gold Card and charges incurred in utilizing the checking privilege from and to the extent of (1) available cash in the Securities Account; (2) proceeds of a redemption of shares of the participant's "money market" fund; and (3) from margin loans extended by Shearson/American Express Inc.

Applicant represents that its investment objective is to maximize current income to the extent consistent with preservation of capital and the maintenance of liquidity by investing primarily, but not exclusively, in securities the income from which is exempt from federal income taxation. Applicant states that it will invest in various municipal obligations having a maturity of one year or less at the date of purchase, are of "high quality" as determined by a major rating service or, if not rated, are of comparable quality as determined by its board of trustees. Applicant further states that it may invest more than 20 percent of its total assets in taxable obligations during periods of abnormal market conditions, when it might be advantageous to its shareholders because market conditions dictate a defensive posture in taxable obligations. Among the taxable securities in which Applicant may invest are: (1) Obligations of the United States government, its agencies, instrumentalities or authorities; (2) prime commercial paper; (3) certificates of deposit of domestic banks with assets of $1 billion or more; and (4) repurchase agreements with respect to any securities that the Applicant is permitted to own. Applicant states that it will not invest in a repurchase agreement maturing in more than seven days if any such investment together with illiquid securities held by the Applicant exceed 10% of its total assets.

Applicant states that it expects to maintain a $1.00 consent net asset value per share and relatively stable daily dividend by keeping its dollar-weighted average portfolio maturity 120 days or less, by not purchasing any instrument with a remaining maturity of greater than one year, and calculating net asset value per share by using the amortized cost method of portfolio valuation. Applicant has applied for and received an exemptive order from the Commission (Investment Company Act Release No. 12212) subject to conditions, to utilize the amortized cost method of valuation.

Applicant states that in addition to a consent net asset value per share, its shareholders require the ability to receive same-day redemption proceeds. According to the application, the cash needed to meet net redemptions of Applicant's shares to pay a participant's debt balance in his Management Account must be obtained the same day from maturing portfolio securities or settlements arranged that day on sales of securities. Applicant further states that its portfolio manager has only a short period of time to make arrangements for sales of portfolio securities to meet redemptions since the federal funds wire closes for transmission purposes at 3:00 p.m. Therefore, Applicant states, unless prior arrangements assuring immediate liquidity have been made, the negotiation of same-day settlements on sales of portfolio securities within the brief time available is frequently impossible or may require the Applicant to receive a less favorable execution price on the sale even though the securities sold have a short remaining maturity. Applicant states that other investment techniques used by taxable money market funds to obtain liquidity are not as freely available because they are prohibitively expensive or would produce undesirable taxable income.

Applicant proposes to improve portfolio liquidity by assuring same-day settlements on portfolio sales (and thus facilitate the same-day payments of redemption proceeds) through the acquisition of "Stand-by Commitments". Applicant describes a Stand-by Commitment as a right of a fund, when it purchases a municipal obligation for its portfolio from a broker, dealer or other financial institution, to sell the same principal amount of such securities back to the seller, at the fund's option, at a specified price. Stand-by Commitments are also known as "puts". The Applicant states that its investment policies will permit the acquisition of Stand-by Commitments solely to facilitate portfolio liquidity, and that the acquisition or exercisability of a Stand-by Commitment will not affect the valuation or maturity of its underlying municipal obligations, which will continue to be valued in accordance with its amortized cost order.

Applicant states that the Stand-by commitments will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) they will be entered into only with dealers, banks and broker dealers who in the investment adviser's opinion present a minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they will not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant further states that since it values its municipal obligations on an

amortized cost basis, the amount payable under a Stand-by Commitment will be substantially the same as the value of the underlying security. Applicant submits that there is little risk of an event occurring that would make the amortized cost valuation of its portfolio securities inappropriate. However, the Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, its Board of Trustees may determine that the securities should be valued on the basis of available market information. Applicant states that it expects to refrain from exercising the Stand-by commitments to avoid imposing a loss on a dealer and jeopardizing the Applicant's business relationship with that dealer.

According to the application, the Applicant expects that Stand-by Commitments generally will be available without the payment of any direct or indirect consideration. However, if necessary and advisable, the Applicant states that it will pay for Stand-by Commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. As stated by Applicant, as a matter of policy, the total amount "paid" in either manner for outstanding Stand-by Commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any Stand-by Commitment is acquired.

As stated in the application, it will be difficult to evaluate the likelihood of exercise or the potential benefit of a Stand-by Commitment. Therefore, the Applicant states that its Board of Trustees believes that the value of any such Stand-by Commitment is zero, regardless of whether any direct or indirect consideration is paid. Where the Applicant has paid for a Stand-by Commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, the Stand-by Commitments will be valued at zero and that the dollar-weighted average maturity will not be affected by the acquisition of a Stand-by Commitment.

According to Applicant's prospectus, Applicant may apply to the Internal Revenue Service for a ruling, or seek from counsel an opinion, that interest on municipal obligations subject to a Stand-by Commitment will be tax-exempt. In the absence of such a favorable tax ruling or opinion of counsel, Applicant states it will not engage in the purchase of securities subject to Stand-by Commitments.

In relevant part, Section 2(a)(41) of the Act defines value to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 under the Act provides, in part, that no registered investment company issuing any redeemable security, and no principal underwriter thereof, shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of tender of the security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, in relevant part, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made in accordance with provisions of the rule and the portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair value as determined in good faith by the board of directors.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit it to value the Stand-by Commitments as proposed.

Section 12(d)(3) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting or is an investment adviser. Therefore, Applicant also requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of Stand-by Commitments from brokers or dealers.

Applicant asserts that the requested relief is appropriate, in the public interest, and consistent with the protection of investors. Applicant submits that the proposed acquisition of Stand-by Commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve liquidity and ability to pay redemption proceeds. Furthermore, Applicant states that the acquisition of Stand-by Commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value. Applicant asserts that the relationship between it and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan. In this regard, Applicant states that while the failure of a broker or dealer to fulfill its obligation under the Stand-by Commitment could result in a loss to it, this risk of loss is not different quantitatively from the risk of loss faced by any investment company which is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Finally, Applicant states it will not acquire Stand-by Commitments to promote reciprocal practices, to encourage the sale of its shares or to obtain research services.

Notice is further given that any interested person may, not later than March 19, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and

regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5193 Filed 2-25-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2023]

Mississippi; Declaration of Disaster Loan Area; Amendment #1

As a result of recalculating the formula interest rate for homeowners who are unable to obtain credit elsewhere we are reducing our previously published interest rate of 8 percent to 7⅝ percent. All other information remains the same.

Dated: February 19, 1982.

Donald R. Templeman,

Acting Administrator.

[FR Doc. 82-5213 Filed 2-25-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/494]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 17, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international CCITT Study Group III and I meetings.

Members of the general public may attend the meeting and join in the discussion subject to instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

Dated: February 12, 1982.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 82-5165 Filed 2-25-82; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Customs Service

Removal of Prohibition on the Importation of Tuna and Tuna Products From Costa Rica

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has notified the Secretary of the Treasury that the reasons for the imposition of a prohibition on the importation of tuna and tuna products from Costa Rica no longer prevail.

EFFECTIVE DATE: The prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is removed effective February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On February 1, 1980, a notice was published in the **Federal Register** (45 FR 7363) advising that under section 205(a)(4)(C) of the Act, on January 14, 1980, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs certified to the Secretary of the Treasury that a United States fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, was seized by Costa Rica as a consequence of a claim of jurisdiction which is not recognized by the United States. Under the authority of sections 205 (b) and (c) of the Act on February 1, 1980, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica was prohibited until the Department of State notified the Secretary of the Treasury that the reasons for this prohibition no longer prevailed.

On January 22, 1982, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs informed the Secretary of the Treasury that the reasons for the imposition of the import prohibition on tuna and tuna products no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is removed.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, U.S. Customs Service. However, other personnel in the Customs Service and the Treasury

Department participated in its development.

Dated: February 22, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-5164 Filed 2-25-82; 8:45 am]

BILLING CODE 4820-03-M

Office of Foreign Assets Control

Restricted Merchandise; Licensed Addressees of Prohibited Publications From Cuba

On January 29, 1982, a list of addressees licensed by the Office of Foreign Assets Control to receive prohibited publications was published in the **Federal Register** as an attachment to instructions issued by OFAC to the U.S. Customs Service regarding restricted merchandise. The list, as published, contained several incorrect addresses and was incomplete. A complete list, with corrections follows:

Licensed To Receive Publications From Cuba

Center for Cuban Studies, 220 E. 23rd Street, New York, New York 10010

Circulo de Cultura Cubana, GPO Box 2174, New York, New York 10001

Tri Continental Film Center Foundation, 419 Park Avenue, South, New York, New York 10016

Tri Continental Imports, Inc., 156 5th Avenue, Suite 232, New York, New York 10010

Licensed To Receive Publications From North Korean, Vietnam or Kampuchea (Cambodia)

None.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

[FR Doc. 82-5126 Filed 2-25-82; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 191]

Chief, Collection Branch, Compliance Division; Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authorizes the Chief, Collection Branch, Compliance Division, in the service centers to levy on wages, salaries, other income and bank deposits in the possession of third parties. The text of the delegation order appears below.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. William M. Gasa, 1111 Constitution Avenue, NW., Room 7539, CP:C:O, Washington, DC 20224 (202) 566-4445 (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

J. R. Starkey,

Director, Collection Division.

Delegation Order

Date of issue: February 25, 1982.

Effective Date: February 25, 1982.

Subject: Delegation of Authority to Levy on Property in Hands of Third Parties

The authority vested in the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 301.6331-1, to levy on wages, salaries, other income and bank deposits in the possession of third parties is also delegated to the Chief, Collection Branch in the Compliance Division, Service Center.

This authority may be redelegated only to Collection Branch personnel in the GS-1169 series and to Collection GS-592 supervisory personnel.

Roscoe L. Edgar, Jr.,

Commissioner.

[FR Doc. 82-5212 Filed 2-25-82; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Administrator's Educational Assistance Advisory Committee; Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Educational Assistance Advisory Committee, authorized by section 1792, title 38, United States Code, will be held at the Veterans Administration Central office, 810 Vermont Avenue, NW, Washington, DC, on March 23, 1982, at 9 a.m. in the Omar N. Bradley Conference Room. The meeting will be for the purpose of considering alternative methods of measuring educational courses, reviewing provisions of VA education programs, and establishing subcommittee assignments and tasks.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Mr. C. L. Dollarhide, Director, Education Service (22), Veterans Administration Central Office (phone 202-389-5154), before March 17, 1982.

Interested persons may attend, appear before or file statements with the committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 2:30 p.m. on March 23, 1982.

Dated: February 19, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-5211 Filed 2-25-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 39
Friday, February 26, 1982

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

COMMODITY CREDIT CORPORATION

TIME AND DATE: 9 a.m., March 5, 1982.

PLACE: Room 104–A Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Special Meeting of December 21, 1981.
2. Closed Meeting of December 21, 1981.
3. Docket WCX–312 re: Food Security Wheat Reserve.
4. Docket WCO–309a re: Flue-Cured Tobacco—Testing Levels of Maleic Hydrazide (MH) Residue in Cured Leaves.
5. Dockets XCP–101a and XCP–176a re: Wool and Mohair Payment Programs for the 1982–1985 Marketing Years.
6. Docket FCZ–247, Rev. 2 re: Policy on CCC Interest Rates on Commodity Loans, Grain Reserve Loans, Farm Storage and Drying Equipment and Certain Price Support Purchase Transactions.
7. Memorandum re: Interest Rates Charged by the Commodity Credit Corporation (50612–1–Hq).
8. Memorandum re: Status Report on the Extended Grain Storage Program.
9. Memorandum re: Progress Report on Processed Cheese Distribution to States.
10. Memorandum re: Barter of Dairy Products for Jamaician Bauxite.
11. Resolution re: Ratification on Repurchase Offer on CCC Polish Credit Guarantees.

CONTACT PERSON FOR MORE INFORMATION: Edward D. Hews, Secretary, Commodity Credit Corporation, Room 3090–South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447–7583.

[S 300–82 Filed 2–24–82; 2:15 pm]

BILLING CODE 3410–05–M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, March 3, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 23, 1982.

William W. Wiles,

Secretary of the Board.

[S 298–82 Filed 2–23–82; 4:46 pm]

BILLING CODE 6210–01–M

3

FOREIGN CLAIMS SETTLEMENT COMMISSION

[FCSC Meeting Notice No. 2–82]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Monday, March 22, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation and claims against the Socialist Republic of Vietnam.

Changed To

Thursday, March 25, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation, claims against the Socialist Republic of Vietnam, and claims against the Government of the Czechoslovak Socialist Republic.

Monday, April 26, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation, claims against the Socialist Republic of Vietnam, and claims against the Government of the Czechoslovak Socialist Republic.

Monday, May 24, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation, claims against the Socialist Republic of Vietnam, and claims against the Government of the Czechoslovak Socialist Republic.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 409, Washington, D.C. 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C. on February 23, 1982.

Judith H. Lock,

Administrative Officer.

[S–301–82 Filed 2–24–82; 2:28 pm]

BILLING CODE 4410–01–M

4

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, March 9, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. High-precision solenoids (Docket No. 802).
5. Investigation 104–TAA–6 (Barley from France)—briefing and vote.
6. Investigation 731–TA–3 (Sugar from Canada)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523–0161.

[S–299–82 Filed 2–24–82; 2:04 pm]

BILLING CODE 7020–02–M

federal register

Friday
February 26, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Weight Control Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 81N-0022]

Weight Control Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of a proposed rulemaking that would establish conditions under which over-the-counter (OTC) weight control drug products are generally recognized as safe and effective and not misbranded. This notice is based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by May 27, 1982, and reply comments by June 28, 1982.

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: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on March 2, 1979 a report on OTC weight control drug products from the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed order containing (1) the monograph recommended by the Panel, which establishes conditions under which OTC weight control drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA; however, the agency has reviewed a portion of the Panel's report because the Panel recommended a higher dosage for phenylpropanolamine than had previously been marketed OTC, and recent reports in the medical literature have shown moderate to marked elevations in blood pressure induced by this ingredient. The Panel's findings appear in this document to obtain public comment before the agency reaches a final decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on all matters contained in it.

After reviewing all comments submitted in response to this document, FDA will issue in the **Federal Register** a tentative final monograph for OTC weight control drug products as a notice of proposed regulation. Under the OTC drug review procedures, the agency's position and proposal are first stated in the tentative final monograph, which had the status of a proposed rule. Final agency action occurs in the final monograph, which had the status of a final rule.

The agency notes that the Panel placed single doses of 25 to 50 milligrams (mg) and a total daily dose of not more than 150 mg of phenylpropanolamine hydrochloride in Category I. In addition, the Panel recommended that the single and daily doses for any timed-release preparation not exceed those for immediate-release preparations.

The agency is aware of reports of data, made available after the Panel's report was submitted, indicating that phenylpropanolamine doses higher than those currently marketed (but within the higher range recommended as safe by the Panel) cause elevation of blood pressure. Other studies show that currently marketed dosages produce no such effect. The most striking new finding, reported by Horowitz et al., demonstrates the acute effects of phenylpropanolamine from a single timed-release capsule (Ref. *1*). Specifically, in a double-blind trial, single timed-release capsules containing 85 mg and 50 mg of phenylpropanolamine respectively were compared with a placebo in medical students who did not have hypertension or heart disease. Both capsules had been marketed in Australia, the 85-mg capsule as a weight control product, and the 50-mg capsule as a nasal decongestant. The 85-mg product was given to 37 subjects, and a matching placebo was given to 35. In those who received the 85-mg product, mean supine diastolic pressure rose from 70 millimeters (mm) mercury at baseline to a mean peak level of 94 mm mercury. Peak supine diastolic pressures of 100 mm mercury or greater were recorded in 12 of the 37 subjects (32 percent). Peak blood pressure elevations occurred between 1.5 and 3 hours after phenylpropanolamine ingestion. In the placebo group, mean supine diastolic blood pressure rose from 74 mm mercury at baseline to a peak of 77 mm mercury; only one subject receiving a placebo had a peak diastolic blood pressure as high as 100 mm mercury. Side effects were reported by 20 subjects receiving the 85-mg product and 1 subject receiving a placebo. These effects, including dizziness, palpitations and headache, corresponded closely to the increase in blood pressure. The 50-mg product was given to 34 subjects, and a matching placebo to 35. In those who received the 50-mg product, mean supine diastolic blood pressure rose from 78 mm mercury to a peak of 83 mm mercury. In four subjects (11 percent), diastolic blood pressure rose to 100 mm mercury or more (maximum pressure of 110 mm mercury in one subject). There was no change in blood pressure in the placebo group. There were no other adverse reactions in either group.

Whether the significantly greater incidence and severity of hypertension seen with the 85-mg product as compated with the 50-mg product is due only to a higher dosage (85 mg vs. 50 mg phenylpropanolamine) or also to a greater release rate was not studied by the investigators. It should be noted, however, that the Panel recommended a dosage up to 50 mg of phenylpropanolamine in adults for single-dose immediate-release preparations. Eleven percent of the subjects given the 50-mg product in a timed-release capsule developed clinically significant hypertension. It is not likely, however, that the entire dose was released at one time, so that, with an immediate-release preparation of 50 mg, it would be expected that more than 11 percent of subjects would exhibit a clinically significant increase in supine blood pressure.

The authors did not report standing blood pressures. No subjects developed postural hypotension.

In another study (double blind, crossover) by Horowitz et al. (Ref. *2*) in six volunteer medical students with a baseline supine diastolic pressure of about 82 mm mercury, a single capsule of the same timed-released 85-mg product described above caused a mean peak supine diastolic pressure of 100 mm mercury. Levels of greater than 110 mm mercury were noted in two of the six subjects. Adverse effects (malaise, headache, tightness of the chest) were reported in five of six subjects. Blood pressure fell slightly when the placebo was given, and there were no adverse reactions to the placebo. With the 85-mg product, supine pulse rate dropped from 71 at baseline to a low of 55. The authors state that standing blood pressure also rose in the 85-mg product group but to a less marked degree. They did not give the figures for standing blood pressure. In the same article, the authors also report a case of severe hypertension in a patient taking the 85-mg product. A 17-year-old woman had ingested six capsules hoping for an increased anorectic effect. Three hours later she developed severe headache with a supine blood pressure of 200/130 mm mercury. While the patient remained fully conscious and well-oriented, she was hospitalized for bed rest for 48 hours until her blood pressure level returned to 130/70 mm mercury. Frewein, Leonello, and Frewin (Ref. *3*) reported a similar case involving a 21-year-old woman following ingestion of a single 85-mg capsule. Both sets of authors question the safety and further OTC availability of phenylpropanolamine.

King (Ref. *4*) reported two cases of presumed hypertension. In one case, cerebral hemorrhage was observed upon examination 36 hours after ingestion of only two capsules of the 85-mg product. In the other case, one capsule of the 85-mg product resulted in palpitations and neck pain 30 minutes after ingestion. Although the maximum blood pressure level is not known in either case, the author reports that the symptoms resemble those in previously reported cases in which acute hypertensive episodes were documented after taking the 85-mg product.

Peterson and Vasquez (Ref. *5*) reported severe hypertension and cardiac arrhythmias in a 15-year-old woman who had been ingesting, as an anorectic, the labeled dose of three tablets a day of a combination of 25 mg of phenylpropanolamine and 25 mg of caffeine. The hypertension and arrhythmias were reversed with therapy, and the patient remained normotensive and without arrhythmias with no further therapy.

Cuthbert, Greenberg, and Morley (Ref. *6*), in a study on themselves (three men), found that a dose of 50 mg phenylpropanolamine caused a modest rise in supine systolic blood pressure between 18 and 26 mm mercury, but only a very slight rise in diastolic pressure. A dose of 100 mg produced a more pronounced rise in blood pressure, increasing the supine diastolic pressure to 97, 109, and 123 mm mercury respectively in the three subjects. There was no effect on blood pressure of 50 mg phenylpropanolamine in a marketed timed-release product containing 50 mg phenylpropanolamine plus belladonna alkaloids equivalent to 0.25 mg or of another marketed product containing 50 mg phenylpropanolamine plus 2.5 mg isopropamide. Following administration of placebo, there was a slight fall in blood pressure.

The agency is aware of an additional study published since completion of the Panel review that examined the safety of the lower dosage limit of phenylpropanolamine recommended by the Panel. Silverman et al. (Ref. *7*) evaluated the effects of a 25-mg phenylpropanolamine dose on 37 healthy normal males at 3 separate study sites. The study subjects were divided into three groups. The first group consisted of 15 subjects, each of whom received a single capsule dose of 25-mg phenylpropanolamine. Supine systolic and diastolic blood pressures and pulse measurements were taken just prior to administration of the drug and at 1, 2, and 3 hours following ingestion. A statistically significant decrease in pulse rates occurred at 2 and 3 hours after administration of the drug, compared to pulse rates prior to administration. Supine systolic and diastolic blood pressures taken after administration of the drug did not differ significantly from those taken before.

In the second group, each of 10 subjects received a single dose of a product containing a combination of 25 mg phenylpropanolamine hydrochloride and 100 mg caffeine. Pulse rates and supine systolic and diastolic blood pressures were measured 30 minutes before administration of the drug and 30, 60, 90, 120, 150, 180, 210, and 240 minutes after. There was no statistically significant difference in pulse rates and supine systolic and diastolic blood pressures taken before and at the eight intervals after administration of the drug.

The third group consisted of 12 subjects who participated in a double-blind crossover study using a single dose of 25-mg of phenylpropanolamine hydrochloride and matching placebo dose containing lactose. The research covered 2 study days. On the morning of each study day, each subject's pulse rate and supine diastolic and systolic blood pressures were determined and each subject then ingested either a drug or placebo capsule. Supine blood pressures and pulse rates were taken at 30, 60, 90, 120, 150, 180, 210 and 240 minutes after ingestion. Following a 48-hour washout period, the subjects were crossed over, using the dosage form they did not take on the first study day. No statistically significant difference between pulse rate and supine blood pressures of subjects taking the drug and subjects taking the placebo capsule was reported at any sample time.

Silverman el al. did not report standing blood pressures for the 37 subjects at any point during the study.

Although the interaction of phenylpropanolamine with monoamine oxidase inhibitors is well known, another interaction has been reported recently by Lee, Beilin, and Vandongen (Ref. *8*). Severe hypertension occurred in a patient taking indomethacin along with an 85-mg dose of phenylpropanolamine, although neither of the drugs was associated with hypertension in the patient when given alone. The authors postulate that the mechanism of action of indomethacin is inhibition of prostaglandin synthesis which will reduce prostaglandin-controlled negative feedback acting on catecholamine release at sympathetic nerve endings. (Phenylpropanolamine is known to release norepinephrine from sympathetic nerve endings. Many nonsteroidal anti-inflammatory agents, including aspirin, are known to inhibit prostaglandin synthesis. Aspirin, of course, is frequently taken with phenylpropanolamine in treatment of the common cold. The authors questioned the continued marketing of phenylpropanolamine in view of the postulated risk of severe hypertension caused by interactions with various commonly used drugs.

In a recent survey Dietz (Ref. *9*) reported on seven patients who experienced acute central nervous system effects. These effects ranged from stimulation of the medullary respiratory center to tremor, restlessness, increased motor activity, agitation, and hallucinations. The author reviewed cases taken from emergency room records over a 6-month period. The patients were all women, ranging in age from 17 to 45 years. Side effects appeared within 1 to 2 hours after ingesting a single 50- or 75-mg dose of phenylpropanolamine. Results of

physical examinations, with the exception of tachypnea and tachycardia, were normal. Several patients complained of nausea and anxiety. All side effects, with the exception of those in one patient, subsided over the course of 2 to 4 hours without treatment. The author stated that physicians should be alerted to the possible side effects from ingesting preparations containing phenylpropanolamine. He concluded that warnings on products containing phenylpropanolamine should include the possible serious central nervous system effects of this agent.

In conclusion, these studies have reported that 11 percent of subjects given a single dose of 50 mg phenylpropanolamine in a timed-release product developed diastolic hypertension (100 mm mercury or more), and a single dose of 85 mg phenylpropanolamine in a timed-release product caused diastolic hypertension, sometimes severe, in 32 to 33 percent of subjects. Cases of significant hypertension, symptomatic and asymptomatic, have been reported by others in subjects and patients taking 25 mg, 50 mg, 85 mg, or 100 mg phenylpropanolamine. The interaction with indomethacin raises the possibility that an interaction might also occur with aspirin and other drugs with similar action. Acute central nervous system effects have also been reported. In addition, the use of weight control products containing phenylpropanolamine by obese persons with hypertension may significantly increase their risk of heart attack, stroke, and kidney failure. In considering the positive association between hypertension and obesity, the increase in risks becomes evident, because obese persons are most likely to use weight control products.

For these reasons, the agency is concerned about the suitable safe dose level of phenylpropanolamine hydrochloride for use in weight control products. Further studies appear necessary to resolve the safety questions raised by the studies discussed above. These studies would be needed to determine the extent to which phenylpropanolamine induces hypertension in normotensive patients or aggravates pre-existing hypertension, and interacts with aspirin and other medications that inhibit prostaglandin synthesis at the dose levels recommended for use by the Panel. Therefore, at this time the agency is specifically requesting comments and information on this issue.

At this time, the agency does not find it necessary to take action to remove from the market products containing phenylpropanolamine at dosage levels which have a marketing history of use in OTC weight control drug products. The daily dosage levels in these marketed products are an immediate-release dose of up to 37.5 mg and a timed-release dose of up to 75 mg phenylpropanolamine, with the total daily dose not to exceed 75 mg in either case.

Until the safety questions described above are resolved, the agency will not allow any increase in the OTC phenylpropanolamine dosages currently permitted, nor will it require any decrease in the currently permitted dosages for immediate-release products.

The agency points out that the OTC drug regulations establish conditions for marketing OTC active ingredients after publication in the **Federal Register** of an advance notice of proposed rulemaking but prior to publication of an applicable final monograph (final rule) (21 CFR 330.13(b)(2)). Under these regulations any OTC drug product containing an active ingredient with a dosage level higher than that in use on December 4, 1975 is regarded as a new drug and is subject to immediate regulatory action, even though a Panel may have recommended that the ingredient and/or dosage be considered Category I, if the agency issues a notice disagreeing with the Panel's recommendation and adopting a different position. The weight control drug products in use on December 4, 1975 had a maximum daily dose level or 75 mg, immediate-release doses of 25 to 37.5 mg, and a timed-release dose of 75 mg of phenylpropanolamine hydrochloride. OTC weight control drug products with a higher single and/or total daily dose of phenylpropanolamine than that available on December 4, 1975 are subject to immediate regulatory action in the absence of an approved new drug application.

Although the studies discussed above show that further testing is needed, the doses used are, with two exceptions (Peterson and Vasquez, Ref. *5*, and Silverman et al., Ref. *7*), above the levels found in currently marketed immediate-release products. Both this Panel and the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products have considered 25-mg single doses to be Category I, based on different, earlier studies. This Panel believed that these earlier studies warranted a Category I classification for single doses as high as 50 mg. Both Panels found that there were few reported side effects from doses up to 50 mg in nasal decongestants in spite of extensive use. Agency regulations currently recommend, in 21 CFR 369.20, that all marketed drug products containing phenylpropanolamine bear or contain a statement warning against use by individuals with high blood pressure, heart disease, diabetes, or thyroid disease. The agency will continue to monitor further studies and information on phenylpropanolamine. If new information shows that any of the existing uses, dosage levels, or dosage forms of phenylpropanolamine pose safety risks requiring immediate action, the agency will provide notice of its determination, and the marketing of these products after that time will require an approved New Drug Application (NDA) or be subject to appropriate regulatory action.

In addition to monitoring further studies and information on all phenylpropanolamine studies, the agency specifically requests information on the dissolution rates of timed-release products. This information an aid the agency in evaluating whether any safety problem is posed by these products that requires action before a final monograph is issued. It is also important to recognize that, under 21 CFR 200.31, timed-release formulations that contain a quantity of an active ingredient that is not generally recognized as safe as a single dose are regarded as new drugs. Therefore, the agency points out that an approved NDA will be necessary at the time of a final monograph to domonstrate that phenylpropanolamine in a timed-release dosage form is properly manufactured and controlled to release the total dose at a safe rate. Any such product without an approved NDA will be subject to regulatory action after the final monograph becomes effective.

At this time the agency has not evaluated the Panel's findings regarding the effectiveness of weight control drug products. However, the agency points out the Panel's finding that "while weight control drug products may assist in reducing an individual's appetite, a significant weight loss can be achieved only if accompanied by a reduction in total daily caloric intake below the energy output." (See part II. paragraph B. below—*General Discussion.*) In order to convey this point to consumers the Panel recommended that all product labeling contain the following statement, under the heading "*Directions*": "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake." (See part III. paragraph A.2. below—Category I labeling.) The agency is concerned that the past promotion of some weight cotrol drug products may

have engendered a misunderstanding among potential consumers that weight loss results directly from the use of the drug product, and, therefore, it is unnecessary to diet in order to lose weight. In order to overcome this possible misunderstanding the agency strongly recommends that manufacturers of OTC weight control drug products voluntarily undertake immediate steps to incorporate the Panel's recommended statement in their labeling.

The agency also points out that the Panel recommends as Category I the combination of phenylpropanolamine hydrochloride and caffeine with labeling that would bear all the warnings and directions specified in proposed §§ 340.50(d) and 357.550(c), as well as a consolidated statement of indications. The agency invites comment on alternate or consolidated labeling of such products. The agency is particularly concerned that the directions for phenylpropanolamine hydrochloride, as proposed in § 357.550(d), specify daily doses for up to 3 months, whereas the warning for caffeine as proposed in § 340.50(c)(2) states, "For occasional use only." FDA will address this difference in labeling in the tentative final monograph.

References

(*1*) Horowitz J. D. et al., "Hypertensive Responses Induced by Phenylpropanolamine in Anorectic and Decongestant Preparation," *Lancet*, 1:60–61, 1980

(*2*) Horowitz, J. D. et al., "Hypertension and Postural Hypotension Induced by Phenylpropanolamine (Trimolets)," *Medical Journal Australia*, 1:175–176, 1979.

(*3*) Frewin, D. B., P. P. Leonello, and M. E. Frewin, "Hypertension After Ingestion of Trimolets," *Medical Journal Australia*, 2:497–498, 1978.

(*4*) King, J., "Hypertension and Cerebral Hemorrahge After Trimolets Ingestion," *Medical Journal Australia*, 2:258, 1979.

(*5*) Peterson, R. B., and L. A. Vasquez, "Phenylpropanolamine-Induced Arrhythmias," *Journal of the American Medical Association*, 223:324–325, 1973.

(*6*) Cuthbert, M. F., M. P. Greenberg, and S. W. Morley, "Cough and Cold Remedies: A Potential Danger to Patients on Monoamine Oxidase Inhibitors," *British Medical Journal*, 1:404–406, 1969.

(*7*) Silverman, et al., "Lack of Side Effects form Orally Administered Phenylpropanolamine and Phenylpropanolamine with Caffeine: A Controlled three-Phase Study," *Current therapeutic Research*, 28:185–194, 1980.

(*8*) Lee, K. Y., L. J. Beilin, and R. Vandongen, "Severe Hypertension After Ingestion of an Appetite Suppressant (Phenylpropanolamine) with Indomethacin," *Lancet*, 1:1110–1111, 1979.

(*9*) Dietz, A. J., "Amphetamine-like Reactions to Phenylpropanolamine," *Journal of the American Medical Association, 245:601–602, 1981.*

In the preamble to this report, the agency is inviting comment on additional information that has appeared in the medical literature after the Panel adopted its report. The agency is also disagreeing with higher dosage levels recommended by the Panel for phenylpropanolamine hydrochloride and is currently limiting the marketing of products containing phenylpropanolamine to those dosage levels for which there is a marketing history of use in OTC weight control products. Because this represents a maintenance of existing marketing conditions, the agency has determined that there is no regulatory impact of this action at this time.

The agency's full position on OTC weight control drug products will be stated initially when the tentative final monograph is published in **Federal Register** as a notice of proposed regulation. In that notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the notice of proposed rulemaking is published. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742).

The agency invites public comment regarding any impact that this rulemaking would have on OTC weight control drug products. Types of impact may include, but are not limited to, the following: Increased costs due to relabeling, repackaging, or reformulating; removal of unsafe or ineffective products from the OTC market; and testing necessary, if any. Comments regarding the impact of this rulemaking on OTC weight control drug products should be accompanied by appropriate documentation.

In accordance with § 330.10a)(2), the Panel and FDA have held as confidential all information concerning OTC weight control drug products submitted for consideration by the Panel. All the submitted information will be put on public display in Dockets Management Branch, Food and Drug Administration, after March 29, 1982, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD–510) (address above).

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 338 (D.D.C. 1979).The Court in *Culter* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorize the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 6 months after the date of publication of the final monograph in the **Federal Register.** On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions which would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce. Further, any OTC drug products subject to this monograph which are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into

interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information; on all active ingredients used in OTC miscellaneous internal drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31696). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredients" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient.' ") In the **Federal Register** of August 27, 1975 (40 FR 38179), a notice supplemented the initial notice with a detailed list of ingredients which included weight control active ingredients.

The Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a)(1) and (5) on the safety, effectiveness, and labeling of the active ingredients in these products:

John W. Norcross, M.D., Chairman
Ruth Eleanor Brown, R. Ph. (resigned May 1976)
Elizabeth C. Giblin, M.N., Ed. D.
Richard D. Harshfield, M.D.
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O.
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.D. (appointed March 1976)
Diana F. Rodriguez-Calvert, Pharm. D. (appointed July 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm. D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph. D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator. Enrique Fefer, Ph.D., served as the Executive Secretary until July 1976, followed by George W. James, Ph.D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer until October 1978; Roger Gregorio followed as the liaison for the Offce of New Drug Evaluation. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph.

To expand its medical and scientific base, the Panel called upon the following consultants for advice in areas which required particular expertise:

Ralph B. D'Agostino, Ph.D. (statistics)
Lynn R. Brady, Ph.D. (pharmacognosy)
Arthur E. Schwarting, Ph.D. (pharmacognosy)

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for weight control drug products in this document. The review of other categories of miscellaneous internal drug products will be continued by the Panel, and its findings will be published periodically in the **Federal Register** during the Panel's deliberations.

The Panel was first convened on January 13, 1975, in an organizational meeting. Working meetings were held on the following dates (the dates of those meetings which dealt with the topic of this document are in italics): February 23 and 24, March 23 and 24, April 27 and 28, June 22 and 23, *September 21 and 22,* and November 16 and 17, 1975; *February 8 and 9, March 7 and 8, April 11 and 12, May 9 and 10, July 11 and 12,* and *October 10 and 11,* 1976; February 20 and 21, *April 3 and 4, May 15 and 16, July 9, 10, and 11,* October 15, 16, and 17, and December 2, 3, and 4, 1977; January 28, 29, and 30, March 10, 11, and 12, May 5, 6, and 7, June 23, 24, and 25, *August 4, 5, and 6, September 29, 30, and October 1,* and *November 17, 18, and 19,* 1978; *January 19 and 20,* and *March 2,* 1979.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration (address given above).

The following individuals were given an opportunity to appear before the Panel to express their views on weight control drug products, either at their own or at the Panel's request:

Stanley L. Altschuler, M.D.
Antony A. Conte, M.D.
Edgar E. Coons, Ph.D.
Devra Lee Davis, Ph.D
Donald J. Flaster, M.D.
Solomon I. Griboff, M.D.
Charles Hamilton, Ph.D.
Saul Heller, M.D.
Bartley G. Hoebel, Ph.D.
Peg Kaplin
Harry R. Kissileff, Ph.D.
Kurt S. Konigsbacher, D.Sc.
James Ramey, M.D.
Marianne Sebok, M.D.
Harold I. Silverman, D.Sc.
Edward L. Steinberg, M.S., O.D.
Charles Winick, Ph.D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent data and information submitted through March 2, 1979 in arriving at its conclusions and recommendations for OTC weight control drug products.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel's findings with respect to OTC weight control drug products are set out in three categories:

Category I. Conditions under which OTC weight control drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC weight control drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel reviewed 111 weight control active ingredients and classified 2 ingredients in Category I, 98

ingredients in Category II, and 11 ingredients in Category III.

I. Submission of Data and Information

Pursuant to the notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on OTC miscellaneous internal drug products, the following firms made submissions related to products used for weight control:

A. Submissions by Firms

Firm and Marketed Products

Alleghany Pharmaceutical Corp., New York, NY 10017—Hungrex w/P.P.A. tablets, Permathene-12 capsules.
Fox Pharmacal, Inc., Ft. Lauderdale, FL 33309—Odrinex tablets, Super-Odrinex tablets.
Marion Laboratories, Inc., Kansas City, MO 64137—Pretts tablets.
Purex Corp., Carson, CA 90745—Slendron capsules.
Thompson Medical Co., Inc., New York, NY 10022—Appedrine tablets, Slim-Mint gum, Slim-Line candy, Prolamine capsules.

B. Labeled Ingredients Contained in Marketed Products

1. *Ingredients in products submitted to the Panel for review.*

Alginic acid
Benzocaine
Caffeine
d-Calcium pantothenate
Citric acid
Corn syrup
Dextrose
Glycerides (mono- and di-)
Iron (ferrous sulfate, U.S.P.)
Lecithin
Methylcellulose
Niacinamide
Phenylpropanolamine hydrochloride
Riboflavin (vitamin B_2)
Salt (sodium chloride)
Sodium bicarbonate
Sodium carboxymethylcellulose
Sucrose
Thiamine mononitrate (vitamin B_1)
Vegetable oil
Vitamin A
Vitamin A palmitate
Vitamin B_1 (thiamine)
Vitamin B_2 (riboflavin)
Vitamin B_6 (pyridoxine hydrochloride)
Vitamin B_{12} (cyanocobalamin)
Vitamin B_{12} (cobalamin concentrate)
Vitamin C (ascorbic acid)
Vitamin D
Vitamin E (*d1*-alpha-tocopheryl acetate)
Xanthan gum food grade

2. *Other ingredients reviewed by the Panel.* In addition to those ingredients included in the products submitted to the Panel, the following ingredients were listed in the **Federal Register** notice of August 27, 1975 (40 FR 38179):

Alcohol
Alfalfa
Anise oil
Arginine
Biotin
Bone marrow-red-glycerin extract
Buchu
Buchu, potassium extract
Caffeine citrate
Calcium
Calcium carbonate
Calcium caseinate
Calcium lactate
Carrageenan
Choline
Chondrus
Cnicus benedictus
Copper
Copper gluconate
Corn oil
Corn silk, potassium extract
Cupric sulfate
Cystine
Dioctyl sodium sulfosuccinate
Ferric ammonium citrate
Ferric pyrophosphate
Ferrous fumarate
Ferrous gluconate
Flax seed
Folic acid
Fructose
Guar gum
Gum karaya
Histidine
Hydrastis canadensis
Inositol
Iodine
Isoleucine
Juniper, potassium extract
Lactose
Leucine
Liver concentrate
L-lysine
L-lysine monohydrochloride
Magnesium
Magnesium oxide
Malt
Maltodextrin
Manganese citrate
Mannitol
Methionine
Organic vegetables
Pancreatin enzymes
Pantothenic acid
Papain
Papaya enzymes
Pepsin
Phenacetin
Phenylalanine
Phosphorus
Phytolacca berry juice
Pineapple enzymes
Potassium citrate
Psyllium
Rice polishings
Saccharin
Sea kelp
Sea minerals
Sesame seed
Sodium
Sodium caseinate
Soy bean protein
Soy meal
Threonine
Tricalcium phosphate
Tryptophan
Tyrosine
Uva ursi
Uva ursi, potassium extract
Valine
Vitamin A acetate
Vitamin D_2
Wheat germ
Yeast

C. Classification of Ingredients

1. *Active ingredients.*

Alginic acid
Benzocaine
Carrageenan
Carboxymethylcellulose sodium
Chondrus
Guar gum
Karaya gum
Methylcellulose
Phenylpropanollamine hydrochloride
Psyllium
Sea Kelp
Sodium bicarbonate
Xanthan gun

2. *Other ingredients.* The Panel was not able to locate not is it aware of any significant body of data demonstrating the safety and effectiveness of the following OTC ingredients when used for weight control. The Panel, therefore, classifies these ingredients as Category II for this use, and they will not be discussed further in this document.

Alcohol
Alfalfa
Anise oil
Arginine
Ascorbic acid (vitamin C)
Biotin
Bone marrow-red-glycerin extract
Buchu
Buchu, potassium extract
Calcium
Calcium carbonate
Calcium caseinate
Calcium lactate
Calcium pantothenate (*D*-calcium pantothenate)
Choline
Citric acid
Conicus benedictus
Copper
Copper gluconate
Corn oil
Corn syrup
Corn silk, potassium extract
Cupric sulfate
Cyanocobalamin (vitamin B_{12})
Cystine
Dextrose
Dioctyl sodium sulfosuccinate
Ferric ammonium citrate
Ferric pyrophoshate
Ferrous fumarate
Ferrous gluconate
Ferrous sulfate (iron)
Flax seed
Folic acid
Fructose
Glycerides (mono-and di-)
Histidine
Hydrastis canadensis
Inositol
Iodine

Isoleucine
Juniper, potassium extract
Lactose
Lecithin
Leucine
Liver concentrate
L-lysine
L-lysine monohydrochloride
Magnesium
Magnesium oxide
Malt
Maltodextrin
Manganese citrate
Mannitol
Methionine
Niacinamide
Organic vegetables
Pancreatin enzymes
Pantothenic acid
Papain
Papaya enzymes
Pepsin
Phenacetin
Phenylalanine
Phosphorus
Phytolacca berry juice
Pineapple enzymes
Potassium citrate
Pyridoxine hydrochloride (vitamin B_6)
Riboflavin
Rice polishings
Saccharin
Sea minerals
Sesame seed
Sodium
Sodium caseinate
Sodium chloride (salt)
Soy bean protein
Soy meal
Sucrose
Thiamine hydrochloride (vitamin B_1)
Thiamine mononitrate (vitamin B_1 mononitrate)
Theronine
Tricalcium phosphate
Tryptophan
Tyrosine
Uva ursi
Ura ursi, potassium extract
Valine
Vegetable
Vitamin A
Vitamin A acetate
Vitamin A palmitate
Vitamin D
Vitamin D_2
Vitamin E
Wheat germ
Yeast

3. *Ingredients having a stimulant effect but no anorectic effect:*

Caffeine
Caffeine citrate

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons pursuant to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after March 29, 1982, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

II. General Statements and Recommendations

A. Definition of Terms

For the purpose of this document, the Panel agreed on the following definitions:

1. *Obesity.* An increase in body weight beyond the limitation of skeletal and physical requirements as the result of an excessive accumulation of fat in the body; that physical state in which body weight in relation to height and body build is more than 10 percent above the ideal desirable weight determined from the Metropolitan Life Insurance Company table of desirable weights (ref. *1*).

2. *Anorectic.* An agent which reduces appetite.

Reference

(*1*) Metropolitan Life Insurance Company, "Desirable Weights for Men and Women," *Statistical Bulletin*, 58:5, 1977.

B. General Discussion

This document refers only to the common type of obesity which occurs in varying degrees in a significant percentage of our population, especially in those who have reached adulthood and who follow sedentary occupations. The condition is more common in females than in males. Obese persons as referred to in this document are otherwise free of known underlying organic causes such as hypothyroidism, hypothalamic disturbances, Frohlich's syndrome or hyperinsulinism.

The common type of obesity is always caused by the intake and absorption of food in excess of that needed by the body for its daily caloric energy output. Whenever the calories derived from food (whether protein, carbohydrate, or fat) are greater than the body needs, over a period of time the excess is stored as fat and obesity results. Childhood training in eating habits, changes in daily energy output, and psychological factors all may play a role in determining whether an individual develops obesity.

Anorectic drugs are sometimes used in an attempt to suppress appetite and thus reduce or control weight. The Panel wishes to stress that, while weight control drug products may assist in reducing an inidividual's appetite, a significant weight loss can be achieved only if accompanied by a reduction in total daily caloric intake below the energy output.

In this document the Panel evaluates the OTC anorectic drugs as to safety, effectiveness, and adequate labeling. The Panel at the same time, recognizes that effective and sustained weight reduction in large part depends upon the motivation of the person attempting to lose weight, the understanding that caloric reduction for weight loss must be temporary, and the correction of underlying psychological factors which may have originally produced the excessive caloric intake and gain in weight.

The Panel is aware that some weight control drug products now on the market contain a number of vitamins and minerals in addition to their weight control active ingredients. The Panel believes that it is the responsibility of the individual who is taking a weight control drug product to determine the dietary regimen to follow in order to maintain a well-balanced, low-caloric diet; therefore, the addition of vitamins and minerals serves no useful purpose for those following a well balanced diet. The Panel concludes that vitamins and minerals should not be constituents of weight control drug products.

The Panel reviewed timed release weight control drug products and concludes that such products are safe for OTC use when the amount of each safe and effective ingredient does not exceed the amount recommended in the specific ingredient review of non-timed release preparations. (See part III. paragraph A. below—Category I Conditions.) However, the Panel concludes that those timed release preparations which exceed the "per dose" or "daily dose" recommendations for non-timed release preparations, are not generally recognized as safe and effective at this time. The Panel concurs with the existing FDA regulations (21 CFR 200.31 (a) and (b)) which state:

* * * Any such dosage form that contains per dosage unit (for example, capsule or tablet), a quantity of active drug ingredients which is not generally recognized as safe for administration as a single dose under the conditions suggested in its labeling, is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act. (b) The fact that the labeling of this type of drug may claim delayed or prolonged release of all or some of the active ingredients does not affect the new-drug status of such articles. A new-drug application is required in any such case to demonstrate that the drug is in fact safe because it is properly made and controlled to release the total dose at a safe rate. It should be noted particularly that such dosage forms are regarded as new drugs even when the

total daily dosage recommended in the labeling is generally recognized as safe. * * *

C. Combination Policy

The Panel has reviewed FDA's general combination policy on OTC drug products (21 CFR 330.10(a)(4)(iv)) and believes that the policy is rational.

This policy is as follows:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and efffective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel believes that all combination weight control products must conform to each requirement of this general combination policy.

The Panel also believes that if a combination of ingredients is established which is intended to treat separate but concurrent conditions, the labeling of such a combination should inform the consumer that the product is to be used only when the symptoms of both conditions are present.

D. Labeling

The Panel has carefully reviewed the submitted labeling claims for products promoted for the reduction of obesity and has categorized them according to their acceptability into Category I, Category II, or Category III. The Panel is aware that there may be other terms that would be acceptable in expressing the same Category I indications.

Acceptable labeling must include the following: (a) The indication(s) for use, (b) pertinent warnings and contraindications, and (c) the recommended dosage range. The Panel believes that all labeling should be clear, concise, and easily read and understood by most consumers. It has followed this concept in the development of all Category I labeling. The Panel is also concerned about the size and color of the print used in labeling of these and all drug products, and recommends that the industry make the necessary effort to design labeling which can be read easily by consumers.

One of the primary functions of this Panel is to attempt to eliminate confusing labeling claims. Some of the labeling on currently marketed weight control drug products tends to be overly complicated, vague, unsupported by scientific data, and in some cases misleading. Accordingly, such labeling has been placed in Category II.

The indications for use should be simply and clearly stated, the directions for use should provide the user with enough information for safe and effective use of the product, and the label should include the statement that the product is intended only for temporary use in weight control and in conjunction with a reduced caloric intake. The Panel has defined "temporary" as "no more than a 3-month period" for ingestion of any weight control drug product, and this limitation must be clearly stated on the product's label. The Panel believes that a 3-month period should be long enough to establish the necessary change in eating habits. Therefore, the "Directions" should include the statement: "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to periods not exceeding 3 months, because that should be enough time to establish new eating habits."

The Panel is also concerned that if two ingredients are indistinguishable with regard to effectiveness, then it is misleading to claim superiority for one of the ingredients. The Panel understands that its function is not to compare various ingredients in order to determine the OTC drug of choice but to determine only safety and effectiveness for active OTC miscellaneous internal ingredients, as well as proper dosage ranges, warnings, and contraindications.

Undocumented, vague, or misleading claims such as "Lose weight starting today * * *. Look your best, feel your best." and colloquial or provincial expressions that do not have meaning to most people must not be used. Statements which recommend phrophylactic use to prevent the onset of obesity shall not appear on the label, as the Panel believes that this might lead to overuse of the medication. In the labeling, effectiveness shall not be related to the taste, odor, consistency, or other physical characteristics of the product except as they may affect the action of the active ingredients. Phrases such as "modern aid," "most powerful diet aid," "strongest diet aid," and "delightful aid," may be vague and misleading and should be avoided unless supported by sound scientific data. Phrases which have no scientific foundation or that are meaningless to the consumer shall not be included in labeling, (e.g., "the modern aid," "delightful aids," and "sicientifically formulated").

The Panel is aware of the current OTC labeling regulation dealing with warning statements (21 CFR 330.1(g)) and recommends that weight control drug product labeling contain a "Warnings" section which contains the following warnings in addition to any drug-specific warnings: "Keep this and all drugs out of the reach of children" and "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." However, the Panel recommends that the latter statement read as follows: "In case of accidental overdose, contact a Poison Control Center, emergency room, or physician immediately for advice." The Panel believes that this revision will be more informative to the consumer. The statement, "Do not give this product to children under 12 years of age," should be included under "Warnings" because the Panel has not been presented with evidence demonstrating the safety of these products for this age group.

Since OTC products can be purchased by anyone, it is the view of the Panel that the public generally does not regard these products as medicines which, if used improperly, can result in injurious or potentially serious consequences. The public needs to be continually alerted to the idea that these products, like all medicines, carry some risk and should be treated with respect. The consumer should also be informed of any possible signs of known toxicity or any symptoms requiring discontinuation of the use of the drug so that appropriate steps may be taken before more severe consequences become apparent.

In addition, the Panel recommends that instructions for the effective use of the product should be displayed prominently on all package labeling.

As previously stated, the Panel recommends that the labeling of combination products intended to treat separate but concurrent conditions should inform the consumer that the product is to be used only when treatment of both conditions is necessary.

The Panel recommends that the label should contain a listing of all ingredients and that it should clearly indicate which are active and which are inactive. Active ingredients should be listed by their established names, and the label should state the quantity of the active ingredient per dosage unit.

III. Weight Control Drug Products

A. Category I Conditions

The following are category I conditions under which weight control drug products are generally recognized as safe and effective and not misbranded.

1. *Category I active ingredients.*

Benzocaine
Phenylpropanolamine hydrochloride

a. *Benzocaine.* The Panel concludes that benzocaine (also known as ethyl aminobenzoate) is generally recognized as safe and effective for OTC weight control in the dose noted below.

(1) *Safety.* Benzocaine is a topical anesthetic of low toxicity. It is relatively insoluble in water and is poorly absorbed (Refs. *1* and *2*). Historically, the use of benzocaine preparations for topical anesthesia, both on the skin and mucous membranes, has been reported many times and has been associated with a high degree of safety. It has been used widely in troches and lozenges containing 1 to 10 mg of benzocaine for the treatment of pharynitis with few side effects. Since benzocaine was introduced in 1903, the medical literature contains a great many case reports and references to its safety and clinical use both as a prescription drug and for OTC use. It is beyond the scope of this Panel to cite a detailed literature survey and case by case report.

Benzocaine, however, is not completely innocous. Allergic sensitivity reactions have infrequently been reported to occur after use as a local anesthetic (Ref. *3*). Methemoglobinemia has been reported rarely after use of benzocaine for diaper rash in an infant (Ref. *4*). The Panel concurs with the findings of the Advisory Review Panel on OTC Topical Analgesic Drug Products (OTC External Analgesic Report), published in the **Federal Register** of December 4, 1979 (44 FR 69768), that there is little or no evidence in controlled, investigative, or epidemiological studies that benzocaine is a potent sensitizer or strong allergen.

The Panel concludes that benzocaine is safe for oral use as an OTC anorectic in a dose of 3 to 15 mg in gum, logenzes, or candy.

(2) *Effectiveness.* One of the factors involved in overeating, and the resulting obesity, is the need to satisfy the sense of taste. Benzocaine is a topical anesthetic of low solubility which acts primarily on the nerve endings (Refs. *1* and *2*). The anesthetic action of benzocaine can be prolonged by keeping the preparations in contact with the mucosa, since its action is entirely within the skin or mucous membranes (Ref. *3*). This action can be obtained through the use of gum, lozenges, or candy containing benzocaine. There appears to be a decreased ability to detect degrees of sweetness by taste perception after chewing gum containing benzocaine (Refs. *5* and *6*).

Studies in weight control with benzocaine in both chewing gum and candy lozenges have demonstrated effective weight loss. Gould (Refs. *7* and *8*) in two studies reported a 1.5 to 2.0 pounds per week weight loss using lozenges containing benzocaine and essential oils in conjunction with dietary guidelines. Plotz (Ref. *9*) reported a satisfactory weight loss (2 pounds per week) in 45 of 50 patients using a benzocaine-methycellulose gum in conjunction with dietary instructions. McClure and Brusch (Ref. *10*) studied 308 patients in a comparative study over a period of 4 to 21 weeks and reported an average weight loss of 3.03 pounds per week over the 4-week period (53 out of the original 62 completed the 4-week trial) and 2.20 pounds per week over the 21-week period (43 out of the same 62 completed the entire study) for those patients using a benzocaine-caffeine-vitamin lozenge as an anorectic in conjunction with dietary restrictions.

In addition to the human studies cited above, work has been performed on rats by Coons (Ref. *11*) demonstrating the effect of a local anesthetic on hunger reduction. Rats were implanted with electrodes into the hypothalamus. The hypothalamus controls the sense of hunger and the taste recognitions of food. With appropriate electrical stimulation it was possible to induce the rats to eat at the desire of the operator. When the rats' tongues were anesthetized with a topical application of a 2 percent tetracaine (a local anesthestic which is structurally similar to benzocaine) solution, the same degree of stimulation that had previously been used did not induce the rats to eat. The Panel considers this study to be an objective demonstration of the effectiveness of a local anesthetic on hunger reduction.

The Panel concludes that benzocaine in the form of gum, lozenges, or candy is an effective OTC drug product for weight control.

(3) *Dosage.* The Panel has determined that a dose of 3 to 15 mg for use in gum, lozenges, or candy just prior to food consumption is generally recognized as safe and effective for weight control.

(4) *Labeling.* The Panel recommends the Category I labeling for weight control ingredients. (See part III. paragraph A.2. below—Category I labeling.)

References

(*1*) Ritchie, J. M., and P. J. Cohen, "Local Anesthetics," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, MacMillan Co., New York, p. 391, 1975.

(*2*) "AMA Drug Evaluations," 3d Ed., Publishing Sciences Group, Inc., Littleton, MA, p. 269, 1977.

(*3*) Swinyard, E. A., "Local Anesthetics," *in* "Remington's Pharmaceutical Sciences," 15th Ed., edited by A. Osol and J. E. Hoover, Mack Publishing Co., Easton, PA, p. 987, 1975.

(*4*) Haggerty, R. J., "Blue Baby Due to Methemoglobinemia," *New England Journal of Medicine*, 267:1303, 1962.

(*5*) Horowitz, S., and R.P. Scalici, "Results of Sensory Panel Tests on Slim-Mint Chewing Gum," contained in OTC Volume 170010.

(*6*) Rosner, L., "To Determine the Effect of Chewing Slim-Mint Gum Upon Taste Perception, Particularly Toward Sweetness," unpublished study, in OTC Volume 170010.

(*7*) Gould, W. L., "On the Use of a Medicament to Reduce the Appetite in the Treatment of Obesity and Other Conditions," *New York State Journal of Medicine*, 47:981–983, 1947.

(*8*) Gould, W. L., "Obesity and Hypertension: The Importance of a Safe Compound to Control Appetite," *North Carolina Medical Journal*, 11:327–334, 1950.

(*9*) Plotz, M., "Obesity," *Medical Times*, 86:860, 1958.

(*10*) McClure, C. W., and C. A. Brush, "Treatment of Oral Syndrome Obesity with Non-traditional Appetite Control Plan," *Journal of the American Medical Woman's Association*, 28:239–248, 1973.

(*11*) Summary Minutes of the 11th meeting of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products held on May 9–10, 1976.

b. *Phenylpropanolamine hydrochloride.* The Panel concludes that phenylpropanolamine hydrochloride is generally recognized as safe and effective when used for OTC weight control in the dosage noted below.

(1) *Safety.* The Advisory Review Panel on OTC Miscellaneous Internal Drug Products agrees with the report of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (as published in the **Federal Register** of September 9, 1976 (41 FR 38312)) which concluded that phenylpropanolamine and its salts are safe for oral use in adult doses of 25 mg every 4 hours or 50 mg every 8 hours, not to exceed 150 mg in 24 hours (41 FR 38400).

Phenylpropanolamine hydrochloride is a synthetic compound with actions similar to ephedrine; however, it has been reported to have less central nervous system stimulation than ephedrine (Ref. *1*). Since it has both alpha and beta adrenergic effects, ingestion of phenylpropanolamine hydrochloride can be expected to cause vasoconstriction, bronchodilation, and tachycardia. Large doses would be expected to cause anxiety, excitement, insomnia, headache, cardiac arrhythmias, convulsions, and circulatory collapse. The lethal dose of

phenylpropanolamine is considered similar to ephedrine, which approximates 50 milligrams per kilogram (mg/kg) (Ref. *2*).

Ingestion of usually recommended doses of up to 50 mg as a nasal decongestant has resulted in few reported side effects in spite of its extensive use. However, because of its potential for adverse reactions, phenylpropanolamine is contraindicated for persons with hypertension, heart disease, diabetes, and thyroid disease.

In 1976, there were 31 reported cases of acute toxic ingestion (toxic overdosage) of OTC weight control drug products containing phenylpropanolamine hydrochloride by persons ranging in age from 14 months to 30 years. The ingested doses of phenylpropanolamine hydrochloride ranged from 12.5 mg (14-month-old patient) to 1.75 grams (g) (18-year-old patient). Symptoms reported were lethargy, hypertension, nausea, vomiting, dizziness, and tachycardia, and one report of convulsions related to ingestion of 200 mg phenylpropanolamine hydrochloride by a 28-year-old person. No deaths were reported (Ref. *3*).

In spite of extensive use of phenylpropanolamine as an OTC drug and as an ingredient in prescription drug products for many years, there have been no reports implicating its lack of safety in pregnancy or of any carcinogenic properties.

This Panel is concerned that a person might ingest a usual dose of phenylpropanolamine to reduce nasal congestion and another usual dose bearing a different trademark for weight reduction and that the combined dose might have adverse effects. Therefore, the Panel considers it necessary to put a warning statement concerning this possibility on all drug products containing phenylpropanolamine.

The Panel concludes that phenylpropanolamine hydrochloride is of a low order of toxicity when used as directed and that it has an adequate margin of safety for use by the general public without professional supervision.

(2) *Effectiveness.* It has been noted that hypothalamic lesions in animals and humans result in obesity and that in animals such overeating can be checked by amphetamines and similar agents, such as phenylpropanolamine hydrochloride (Ref. *4*). Amphetamines and similar agents have a long history of use as anorectics; however, a mechanism of action has not been proven.

The anorectic effect of phenylpropanolamine has been studied by various investigators for many years. The studies conducted may be criticized as lacking in one or more facets of proper study design and have resulted in confusing or contradictory findings. The Panel has reviewed some of these studies and found them inconclusive. In particular, the Panel is aware of the Fazekas et al. study (Ref. *5*) which has been claimed to demonstrate the ineffectiveness of phenylpropanolamine hydrochloride in weight control. The Panel reviewed this study and analyzed the data. The Panel concludes that accurate interpretation of the data in this study with regard to the effectiveness of phenylpropanolamine hydrochloride in weight control is impossible.

New studies (Refs. *6* through *11*) utilizing placebo-controlled, double-blind procedures involving test subjects on a controlled caloric intake have been performed and have been made available to the Panel. The test subjects approximate the target population who would use weight control drug products. The Panel has reviewed the available literature and considers the recent studies to be more valid in determining the effectiveness of phenylpropanolamine hydrochloride in weight control.

While each of these studies is defective in one of more important facets covered by the Panel's proposed protocol, the Panel believes that the combined evidence of these studies does establish the effectiveness of phenylpropanolamine hydrochloride. (See part III. paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.) In particular, two of the studies (Refs. *6* and *7*) are adequate to establish the effectiveness of phenylpropanolamine hydrochloride in weight reduction for short time periods (i.e., 4 to 6 weeks). Another study demonstrates statistical superiority of phenylpropanolamine hydrochloride over placebo for up to 16 weeks (Ref. *8*). Four other studies are adequate to establish the effectiveness of the combination of phenylpropanolamine hydrochloride and caffeine for time periods ranging from 4 to 12 weeks (Refs. *9* through *12*). Further, another 8-week, double-blind study without a placebo, comparing phenylpropanolamine hydrochloride to the combination of phenylpropanolamine hydrochloride and caffeine, did not establish a statistically significant difference between these two treatments (Ref. *13*). The sample population, protocol, and weight reductions in this latter study are in agreement with those from other placebo-controlled studies (Refs. *9* through *12*) and, therefore, permit a cross-study comparison of phenylpropanolamine hydrochloride (alone) with a placebo. Such a comparison further indicates the effectiveness of phenylpropanolamine. The Panel considered the above data sufficient to establish the effectiveness of phenylpropanolamine hydrochloride for weight reduction for time periods up to 12 weeks when taken in conjunction with a reduced caloric intake.

(3) *Dosage.* The Panel has determined that a single dose of phenylpropanolamine hydrochloride of 25 to 50 mg and a daily dose of not more than 150 mg given in divided doses 30 minutes before meals is generally recognized as safe and effective for weight control. In addition, for any timed release preparation, the per dose and daily dosage may not exceed those for the non-timed release preparation.

(4) *Labeling.* The Panel recommends the Category I labeling for weight control ingredients. (See part III. paragraph A.2. below—Category I labeling.) In addition, the Panel recommends the following warning statements under the heading "Warnings":

(i) "Do not exceed recommended dosage."

(ii) "If nervousness, dizziness, or sleeplessness occurs, stop taking this medication and consult your physician."

(iii) "If your are being treated for high blood pressure or depression, or have heart disease, diabetes, or thyroid disease, do not take this product except under the supervision of a physician."

(iv) "If you are taking a cough/cold or allergy medication containing any form of phenylpropanolamine, do not take this product."

References

(*1*) Koelle, G. B., "Parasympathomimetic Agents," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The Macmillan Co., New York, p. 505, 1975.

(*2*) Gosselin, R. E., H. C. Hodge, R. P. Smith, and M. N. Gleason, "Clinical Toxicology of Commercial Products," 4th Ed., Williams and Wilkins Co., Baltimore, MD, 1976.

(*3*) Abstract of Poison Control Center case report forms for calendar year 1976—voluntary program. Attached to memo from Mr. Mark Keller to Mr. John Short dated August 9, 1978. See Volume II Panel Administrator's File (17EPAII).

(*4*) OTC Volume 170041 (Section III, Animal Safety Studies).

(*5*) Fazekas, J. F., et al., "Comparative Effectiveness of Phenylpropanolamine and Dextro Amphetamine on Weight Reduction," *Journal of the American Medical Association*, 170:1018–1021, 1959.

(*6*) OTC Volume 170028 (Section D).

(*7*) Hoebel, B. G., D. A. Willard, and I. K. Krauss, "The Effects of Propadrine on Body

Weight in Humans: Study II," contained in OTC Volume 170041 (Section IV and V—A1 and A2).

(*8*) OTC Volume 170050.

(*9*) Sebok, M., "Clinical Evaluation of the Efficacy of Phenylpropanolamine Compared with Placebo in a Double-Blind Six Week Trial," presentation made to the Panel on July 11, 1977. See Volume II Panel Administrator's File (17EPAII).

(*10*) OTC Volume 170060.

(*11*) OTC Volume 170147.

(*12*) Jolly, E. R., "To Assess the Utility of a Phenylpropanolamine-Caffeine Combination Product as an Adjunct in a Therapeutic Program for Uncomplicated Obesity," contained in OTC Volume 170030.

(*13*) OTC Volume 170155.

2. *Category I labeling.* The Panel recommends the following Category I labeling for weight control drug products as being generally recognized as safe and effective and not misbranded, as well as the specific labeling discussed in the individual ingredient statements.

a. *Indications.* The product labeling should contain one or more of the following statements:

(1) "For appetite control to aid weight reduction."

(2) "An aid for effective appetite control to assist weight reduction."

(3) "Helps curb appetite."

(4) "Appetite depressant in the treatment of obesity (excess weight)."

(5) "An aid to diet control in conjunction with a physician's recommended diet."

(6) "An aid in the control of appetite."

(7) "Helps control appetite."

(8) "For use as an aid to diet control."

(9) "Helps you eat less, weigh less."

b. *Directions.* All product labeling must contain the following statement: "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to period not exceeding 3 months, because that should be enough time to establish new eating habits."

c. *Warnings.* All product labeling must contain the following statement: "Do not give this product to children under 12 years of age."

3. *Category I combinations.* A number of submissions to the Panel contain a combination of phenylpropanolamine hydrochloride and caffeine for use as weight control agents. The Panel considered these extensively and concluded that such a combination is safe and effective if labeled as an "Anorectic/Stimulant." In reaching this decision the Panel had to decide whether or not a significant portion of the dieting population becomes fatigued while dieting. Based upon its professional experience the Panel concluded that such a significant patient population does exist and that the combination of phenylpropanolamine hydrochloride and caffeine meets the three criteria of FDA's combination policy. (See part II. paragraph C. above—Combination Policy.)

The Panel also considered the combination of phenylpropanolamine hydrochloride and caffeine as an anorectic only. One submitted study attempted to demonstrate this anorectic action; but, even though the study showed a greater weight loss for the combination than when using the phenylpropanolamine hydrochloride alone, the results were not statistically significant since the study was not long enough and did not contain a sufficient number of subjects (Ref. *1*).

This Category I combination status only applies to phenylpropanolamine hydrochloride and caffeine when labeled as an "Anorectic/Stimulant" and does not apply to a combination of other Category I weight control ingredients and other Category I stimulants. All conditions (e.g., labeling) contained in the final monograph for each ingredient must be met for the marketing of this combination.

Reference

(*1*) OTC Volume 170155.

B. Category II Conditions

The following are Category II conditions under which drug products used for weight control are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredients.* The only ingredients which the Panel has classified as Category II are included earlier in this document. (See part I. paragraph C. 2 above—Other ingredients.)

2. *Category II labeling.* The Panel concludes that some labeling claims are either vague, misleading, or unsupported by scientific data. The claims listed below and the related terms, are therefore, classified as Category II labeling for weight control drug products:

a. "Contains one of the most powerful diet aids available without prescription."

b. "Contains one of the strongest diet aids available without prescription."

c. "Encourages water loss with a gentle diuretic."

d. "Easy-to-follow reducing plan built around food you love to eat. You will eat well but less and lose weight without going hungry."

e. "A unique way to help your overweight patient eat less."

f. "The modern aid to appetite control."

g. "Now enjoy a slim, trim figure. Lose pounds. Reduce inches."

h. "Lose weight starting today * * *. Look your best, feel your best."

i. "The delightful aid to appetite control."

j. "Delightfully delicious, scientifically formulated to help you control your appetite quickly, pleasantly."

k. "A most pleasant aid to help you lose weight."

l. "Trim pounds and inches without crash diets or strenuous exercise."

m. "A modern aid to appetite control for people who love to eat."

n. "Get rid of unsightly bulges."

o. "Reduce to the weight and size you want to be."

p. "Lose inches from arms, hips tummy, derriere, waist, thighs, legs."

q. "An effective easy-to-follow diet plan that lets you enjoy eating delicious nutritious foods everday as you lose weight."

r. "Enables the obese individual to lose weight in the most comfortable manner by decreasing the desire for food."

s. "Hunger pains are spared and a low calorie reducing diet may now be more easily tolerated."

t. "You will look better and feel better."

u. "Removes excess body weight."

v. "May be used prophylactically."

C. Category III Conditions

The following are Category III conditions for which the available data are insufficient to permit final classification of weight control drug products at this time. The Panel recommends that a period of 2 years be permitted for the completion of studies which may support the change of Category III conditions to Category I.

1. *Category III active ingredients.* The Panel concludes that the safety of the following ingredients and combination in the recommended doses is unquestioned, except as noted in the individual ingredient evaluations:

Alginic acid
Carrageenan
Carboxymethylcellulose sodium
Chondrus
Guar gum
Karaya gum
Methylcellulose
Psyllium
Sea kelp
Sodium bicarbonate
Xanthan gum

a. *Alginic acid.* The Panel concludes that alginic acid is safe for OTC use in the dose noted below, but data are

insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Alginic acid has been used by the food industry since the turn of the century. The Advisory Review Panel on OTC Antacid Drug Products concluded (as published in the **Federal Register** of April 5, 1973 (38 FR 8722)) that alginic acid is safe in amounts of 4 g per day for antacid drug products. Alginic acid has also been marketed for many years in a weight control preparation at a dose of 200 mg per tablet with an average daily consumption of 4.8 g (24 tablets) with no apparent adverse effects. The Advisory Review Panel on OTC Miscellaneous Internal Drug Products concludes that alginic acid is safe for OTC use at 4.8 g per day in OTC weight control drug products.

(2) *Effectiveness.* Alginic acid is a hydrophilic colloidal substance and is marketed in combination with sodium bicarbonate. When this combination is ingested, sodium alginate is formed and carbon dioxide is released. The combination of sodium alginate with carbon dioxide creates a bulk-producing foam.

In the data submitted and reviewed by the Panel, no study supported the claim that alginic acid alone was effective in weight control. But one of four double-blind, placebo-controlled studies submitted to the Panel suggest that alginic acid may be of some benefit when used in combination with sodium bicarbonate and carboxymethylcellulose sodium (Ref. *1*). Because of this potential, the Panel recommends that alginic acid in combination with sodium bicarbonate be tested according to the proposed protocol to demonstrate whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that alginic acid is safe for OTC use in doses up to 4.8 g per day in divided doses when taken with a full glass of water (8 ounces) with each dose.

(4) *Labeling.* The Panel recommends Category I labeling for weight control ingredients. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing the combination of alginic acid and sodium bicarbonate as bulk producers.

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warnings.* "If you are on a sodium-restricted diet, do not use this product except under the supervision of a physician" (only for products containing more than 5 milliequivalents (meq) of sodium in the recommended daily dose).

(5) *Evaluation.* The Panel concludes that alginic acid is safe in the dose recommended above and recognizes that alginic acid in combination with sodium bicarbonate produces bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. the Panel, therefore, recommends that adequate testing of alginic acid in combination with sodium bicarbonate be performed according to the proposed protocol to determine whether or not the combination is effective for weight control. (See part III. paragraph D.1 below—Proposed protocol for evaluation of weight control ingredients.)

Reference

(*1*) Otc Volume 170119 (pp. 28–38).

b. *Carrageenan, chondrus, guar gum, karaya gum, sea kelp, and psyllium.* These ingredients were not submitted to the Panel but were contained in the second **Federal Register** notice dated August 27, 1975 (40 FR 38179). They all are hydrophyllic colloids and, therefore, may act as bulking agents in a way similar to those hydrophyllic colloids submitted and classified in Catagory III, i.e., alginic acid, carboxymethylcellulose sodium, and xanthan gum.

The safety of these ingredients is not questioned since they have been in use for years as food additives and some have had medicinal use.

Carrageenan and chondrus (chondrus crispus) are used as food additives as emulsifiers, stabilizers, or thickeners (21 CFR 172.620 and 21 CFR 182.7255) and have been evaluated and found to be safe by the Advisory Review Panel on Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the **Federal Register** of March 21, 1975 (40 FR 12917).

Guar gum and karya gum are used as food additives as emulsifiers, stabilizers, thickners, and formulation aids (21 CFR 184.1339 and 21 CFR 184.1349, respectively) and have been evaluated and found to be safe as bulk laxatives by the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the **Federal Register** of March 21, 1975 (40 FR 12917 and 40 FR 12907, respectively).

Kelp is safely used as a food additive as a source of iodine, provided that the maximum daily intake of iodine does not exceed 225 micrograms (ug) for foods labeled without reference to a person's age or physiological state (i.e., pregnancy or lactation) (21 CFR 172.365).

Psyllium has been evaluated and found to be safe as a bulk laxative by the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the **Federal Register** of March 21, 1975 (40 FR 12908).

Although no data were submitted to the Panel for these ingredients, the Panel believes that the same opportunity to demonstrate their effectiveness as weight control ingredients should be provided as is being provided for alginic acid, carboxymethylcellulose sodium, methylcellulose, and xanthan gum, since they are all hydrophyllic colloids. Therefore, the Panel classifies carrageenan, chondrus, guar gum, karay gum, sea kelp, and psyllium as Category III for use in weight control.

c. *Carboxymethylcellulose sodium.* The Panel concludes that carboxymethylcellulose sodium (also known as sodium carboxymethylcellulose) is safe in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* The median lethal dose (LD_{50}) of carboxymethylcellulose sodium is 27 grams/kilogram (g/kg) of body weight for white rats and 16 g/kg for guinea pigs. It was nontoxic in doses of 1 g/kg daily when given orally for 6 months to white rats, guinea pigs, and dogs. No pathology was found, and most animals had normal weight gain. However, some experimental animals had greater weight increases than control animals. Doses of 1 g/kg produced no ill effects on fertility or well-being of offspring in three generations of white rats (Ref. *1*).

Carboxymethylcellulose sodium has been used daily as a laxative in humans in doses up to 6 g per day for a year without ill effects (Ref. *2*). It was considered safe in a dose of 200 mg given two to four times daily by the Advisory Review Panel on Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the **Federal Register** March 21, 1975 (40 FR 12931). This Panel also noted in the **Federal Register** publication of March 21, 1975 (40 FR 12909) that cellulose has been shown to bind digitalis, nitrofurantoin, and salicylate. According to Fingl (Ref. *3*) occasional cases of esophageal obstruction have occurred when this substance is chewed or swallowed without liquid.

The Panel concludes that carboxymethylcellulose sodium is safe when used in the dose noted below.

(2) *Effectiveness.* Carboxymethylcellulose sodium is a hydrophilic semi-synthetic cellulose which, when ingested orally with a full glass of water, forms a soft hydrated bulk creating a feeling of fullness (Ref.

4). Such bulk producers have been considered to act as anorectics by creating a bulky mass in the stomach which slows down the course of the meal and provides time for satiety to take place (Ref.*5*). However, Drenick (Ref. *6*) reported that a methylcellulose mass is almost completely gone from the stomach in 30 minutes and that intestinal peristalsis is increased following this rapid emptying. Some significant reductions in hunger were reported in a series of double-blind placebo-controlled studies involving 263 obese dieting individuals who took a combination of bulk-producing drugs including carboxymethylcellulose sodium for a 2-week period. However, no difference in weight loss was found (Ref. *7*). The Panel concludes that carboxymethylcellulose sodium should be tested according to the proposed protocol to determine whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that carboxymethylcellulose sodium is safe for OTC use in doses of up to 2.4 g per day when taken with a full glass of water (8 ounces) with each dose.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients used for weight control. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing carboxymethylcellulose sodium:

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warnings.* (*a*) "If you are taking digitalis, nitrofurantoin, or salicylates, consult your physician before taking this product."

(*b*) "If you are on a sodium-restricted diet, do not use this product except under the supervision of a physician" (only for products containing more than 5 meq of sodium in the recommended daily dose).

(5) *Evaluation.* The Panel concludes that carboxymethylcellulose sodium is safe in the dose recommended above and recognizes that it does produce bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of carboxymethylcellulose sodium be performed according to the proposed protocol to determine whether or not it is effective for weight control. (See part III. paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

References

(*1*) Shelanski, H. A., and A. M. Clark, "Physiological Action of Sodium Carboxymethylcellulose on Laboratory Animals and Humans," *Food Research*, 13:29–35, 1948.

(*2*) World Health Organization Technical Report Series 281, "Specifications for the Identity and Purity of Food Additives and Their Toxicological Evaluation: Emulsifiers, Stabilizers, Bleaching and Maturing Agents," World Health Organization, Geneva, Switzerland, 1964.

(*3*) Fingl, E. "Laxatives and Cathartics," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, p. 979, 1975.

(*4*) OTC Volume 170012 (p. 55).

(*5*) Fletcher, D., "Artificial Bulk Producers as Anorectic Agents," *Journal of the American Medical Association*, 230:901, 1974.

(*6*) Drenick, E. J., "Bulk Producers," *Journal of the American Medical Association*, 234:271, 1975.

(*7*) OTC Volume 170119 (pp. 28–38).

d. *Methylcellulose.* The Panel concludes that methylcellulose is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Methylcellulose is a hydrophilic semi-synthetic cellulose derivative which has been found to be nontoxic in animals and man (Ref. *1*). According to Fingl (Ref. *2*), occasional cases of esophageal obstruction have occurred when methylcellulose is chewed or swallowed without liquid.

According to the findings of the Advisory Review Panel on OTC Laxative, Anitdiarrheal, Emetic, and Antiemetic Drug Products (as published in the **Federal Register** of March 21, 1975 (40 FR 12907)), cellulose has been shown to bind digitalis, nitrofurantoin, and salicylate.

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products concludes that methylcellulose is safe in the dose noted below.

(2) *Effectiveness.* According to Fletcher (Ref. *3*), bulk producers work because they absorb up to 50 times their weight in water to form a stable colloid mass. This mass is said to produce satiety by slowing down the course of the meal. However, Drenick (Ref. *4*) found that methylcellulose is almost completely gone from the stomach in 30 minutes and that intestinal peristalsis is increased following the rapid emptying. The action of methylcellulose is similar to that of other bulk-producing agents. Studies indicate that other bulk-producing agents (i.e., the carboxymethylcellulose sodium, alginic acid, and sodium bicarbonate combination) may be effective in providing reduction in appetitie (Ref. *5*).

The Panel concludes that methylcellulose should be tested according to the proposed protocol to determine whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that methylcellulose is safe for OTC use in a dose of up to 2.4 g per day in divided doses when taken with a full glass of water (8 ounces) with each dose.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients used for weight control. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing methylcellulose:

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warnings.* "If you are taking digitalis, nitrofurantoin, or salicylates, consult your physician before taking this product."

(5) *Evaluation.* The Panel concludes that methylcellulose is safe in the dose recommended above and recognizes that it does produce bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of methylcellulose be performed according to the proposed protocol to determine whether or not it is effective for weight control. (See part III. paragraph D.1. below—Proposed protocol for evaulation of weight control ingredients.)

References

(*1*) World Health Organization, Technical Report Series 539, "Toxicological Evaluation of some Food Additives Including Anticaking Agents, Antimicrobials, Antioxidants, Emulsifiers, and Thickening Agents," World Health Organization, Geneva, Switzerland, 1974.

(*2*) Fingl, E., "Laxatives and Cathartics," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillian Co., New York, p. 979, 1975.

(*3*) Fletcher, D., "Artificial Bulk Producers as Anorectic Agents," *Journal of the American Medical Association*, 230:901, 1974.

(*4*) Drenick, E. J., "Bulk Producers," *Journal of the American Medical Association*, 234:271, 1975.

(*5*) OTC Volume 170119 (pp. 28–38).

e. *Sodium bicarbonate.* The Panel concludes that sodium bicarbonate is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Sodium bicarbonate (baking soda) is an alkalinizing agent which releases carbon dioxide when neutralized by acid. It has a long history of use as an antacid. Sodium bicarbonate was reviewed by the Advisory Review Panel on OTC Antacid Drug Products, and its conclusions were published in the **Federal Register** of April 5, 1973 (38 FR 8714). That Panel reviewed sodium and bicarbonate ions separately and concluded that antacids containing sodium would be safe in a maximum daily dosage of 200 meq of sodium for persons under 60 years of age and 100 meq of sodium for persons 60 years of age or older, and that this dosage would also apply to the bicarbonate ion (38 FR 8718). The agency also concluded that this dosage is safe (21 CFR 331.11(k)(1)). The Advisory Review Panel on OTC Miscellaneous Internal Drug Products agrees with these conclusions and recommends that they apply to weight control drug products containing sodium bicarbonate. This Panel concludes that sodium bicarbonate is safe for OTC use in weight control drug products when used as specified in the dosage section below, and under the labeling restriction noted.

(2) *Effectiveness.* The only data submitted to this Panel for use of sodium bicarbonate in weight control were related to its use as an adjunctive constitutent in combination with other ingredients (alginic acid and carboxymethylcellulose sodium). When wetted, a reaction ensues between the alginic acid and sodium bicarbonate that produces sodium alginate and carbon dioxide. The entrapment of carbon dioxide in the viscous sodium alginate creates a bulk-producing foam. This entrapment is assisted by the emulsifying action of the carboxymethylcellulose sodium in the formulation.

Results of one of four double-blind, placebo-controlled studies submitted to the Panel (Ref. *1*) suggest that, within the limits of subjective appraisal, the combination of carboxymethylcellulose sodium, alginic acid, and sodium bicarbonate (but not the sodium bicarbonate alone) reduces the sensation of hunger to a significant degree when the tablets are taken by obese people trying to reduce their weight. But the studies did not show that the reduced hunger led to a reduction of weight, which the Panel believes should be the measure of a lower caloric intake due to reduced hunger.

The Panel recommends that sodium bicarbonate in combination with alginic acid be tested according to the proposed protocol to determine whether or not it is effective for weight control

(3) *Proposed dosage.* This Panel concludes that sodium bicarbonate is safe for OTC use in doses of up to 16.8 g (200 meq of sodium) for persons under 60 years of age and 8.4 g (100 meq of sodium) for persons aged 60 or older. Since each tablet of the combination in question contains only 1.17 meq of sodium and since the recommended dose is up to 24 tablets per day, this is well within the limits set by the Advisory Review Panel on Antacid Drug Products.

(4) *Labeling.* The Panel recommends Category I labeling for weight control ingredients. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing the combination of alginic acid and sodium bicarbonate as bulk producers:

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warning.* "If you are on a sodium-restricted diet, do not use this product except under the supervision of a physician" (only for products containing more than 5 meq of sodium in the recommended daily dose).

(5) *Evaluation.* The Panel concludes that sodium bicarbonate is safe in the dose recommended above and recognizes that sodium bicarbonate in combination with alginic acid produces bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of sodium bicarbonate in combination with alginic acid be performed according to the proposed protocol to determine whether or not the combination is effective for weight control. (See part III, paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

Reference

(*1*) OTC Volume 170119 (pp. 28–38).

f. *Xanthan gum.* The Panel concludes that xanthan gum is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Xanthan gum is a regulated food additive for use as an emulsifier, stabilizer, or thickener in foods (21 CFR 172.695). Woodward, et al. (Ref. *1*), using doses as high as 1 g/kg body weight in rats and dogs, found no evidence of toxicity and no significant difference in tumor incidence in rats. Doses as high as 0.5 g/kg body weight per day in three generations of rats had no effect on reproductive performance, litter size, or condition. In dogs given a daily intake of up to 1 g/kg body weight for 107 weeks, the incidence of soft stools was dose-related and accompanied by an increase in specific gravity of the urine and an increase in the occurrence of urinary albumin only with the highest doses.

The Panel concludes that xanthan gum is safe in the dose noted below for OTC use in weight control drug products.

(2) *Effectiveness.* Xanthan gum is a hydrophilic colloidal polysaccharide gum containing *d*-glucose, *d*-mannose, and *d*-glucuronic acid as either a potassium or sodium salt. After ingestion it passes through the digestive tract unchanged (Ref. *2*).

Data were submitted to the Panel attempting to demonstrate the effectiveness of xanthan gum for weight control, but the data did not demonstrate statistical superiority of xanthan gum over placebo. However, its action is similar to that of other bulk-producing agents. A combination of carboxymethylcellulose sodium, alginic acid, and sodium bicarbonate was found to be somewhat more effective than placebo in providing subjective reduction of appetite (Ref. *3*).

Since this ingredient seems to have a potential for use in weight control, the Panel recommends that it be tested according to the proposed protocol to determine whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that xanthan gum is safe for OTC use in the dosage of 1.1 g taken before each meal with a full glass of water (8 ounces).

(4) *Labeling.* The Panel recommends Category I labeling for weight control ingredients. (See part III, paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statement be required on products containing xanthan gum under the heading "Directions": "Take a full glass of water (8 ounces) with each dose."

(5) *Evaluation.* The Panel concludes that xanthan gum is safe in the dose recommended above and recognizes that it does produce bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of xanthan gum be performed according to the proposed protocol to determine whether or not it is effective for weight control. (See part III. paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

References

(*1*) Woodward, G., et al., "Xanthan Gum: Safety Evaluation by 2-year Feeding Studies in Rats and Dogs and a Three Generation Reproduction Study in Rats," *Toxic Applied Pharmacology*. 24:30–36, 1973.

(*2*) OTC Volume 170056.

(*3*) OTC Volume 170119.

2. *Category III labeling.* The Panel concludes that available data are insufficient to permit final classification of the following claim for bulk-producing ingredients:

"Provides bulk to add to low caloric intake and helps to satisfy the feeling of hunger caused by emptiness."

3. *Category III combinations.* The Panel concludes that data are insufficient to demonstrate the effectiveness of the following combinations for use in weight control and, therefore, classifies them as Category III. The Panel recommends that these combinations be tested according to the proposed protocol to determine whether or not they are effective for weight control. (See part III, paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

Alginic acid and sodium bicarbonate.

Alginic acid, sodium bicarbonate, and carboxymethylcellulose sodium.

D. Data Required for Evaluation

1. *Proposed protocol for evaluation of weight control ingredients*—a. *Objective of the study:* To determine the effectiveness of the substance under study in reducing weight. This will be accomplished by use of a randomized placebo-controlled double-blind study incorporating features of both a crossover and parallel sample design. The study will extend over 12 weeks.

b. *Target population.* Persons with obesity which is unrelated to a known disease.

c. *Sample population.* Persons who have no overt evidence of endocrine disorder or other organic disease predisposing to obesity, and who have exogenous obesity resulting in a weight at least 15 percent and not more than 30 percent above desirable weights for height, age, body frame, and sex as determined from the Metropolitan Life Insurance Company table of desirable weights (Ref. *1*).

d. *Study setting.* The study should be conducted by qualified investigators in clinical centers or private practices.

e. *Criteria for admissibility into sample.* The study can include males or females satisfying all of the following criteria:

(1) Must be over 18 years of age.

(2) Must be shown by proper medical evaluation to have no evidence of pregnancy or significant cardiac, renal, hepatic, or endocrine dysfunction.

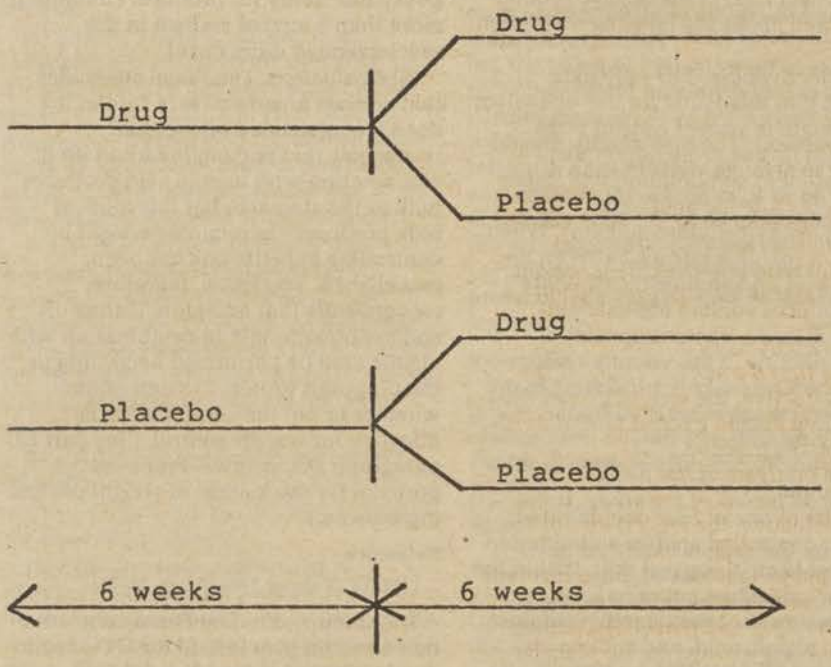
(3) Must not be taking other drugs (including OTC drug products) since these might influence the response to the drug being tested or might cause weight changes independently of the diet. If females are on continual estrogen therapy, or a specific estrogen regimen, such medication may be continued during the study. This is the only exception made for other medication taken during the study.

(4) Must be able to comprehend instructions and adhere to the study protocol.

(5) Must not have lost 10 percent or more weight at any time within the past year by dieting.

f. *Variables to be measured before study.* The subject's pre-study body weight is to be determined from two weighings taken on consecutive days and at the same hour in the morning. The subject is to be weighed (without clothing except for a standard examination gown) by the investigator or an assistant. In addition, information concerning the following variables is to be obtained: age in years, sex, height in inches, subject's usual weight, desirable weight (from the Metropolitan Life Insurance Company's table of desirable weights (Ref. *1*)), percent overweight, usual degree of physical activity, subject's weight pattern over the years, subject's participation in weight reducing programs including diets and medication, estimate of subject's caloric intake for the week before the study, the subject's concept of his or her ideal weight, a subjective evaluation of the subject's usual feeling of hunger (none, slight, moderate, or marked), and an estimate of caffeine intake.

g. *Design of study.* The study design is a randomized placebo-controlled double-blind design incorporating the features of both a crossover and parallel sample design. A diagram of the design is:



One-fourth of the subjects take the drug for 12 consecutive weeks;

One-fourth of the subjects first take the drug for 6 weeks and then take the placebo for 6 weeks;

One-fourth of the subjects first take the placebo for 6 weeks and then take the drug for 6 weeks; and

One-fourth of the subjects take placebo for 12 consecutive weeks.

Subjects are to be randomly assigned to one of the four schedules. The study is a double-blind study: neither the investigator nor the subjects should know the assignment of any subject.

The above design allows for direct comparisons between the drug and

placebo for both 6 and 12 weeks, for estimation and adjustment of carryover and/or ordering effects (i.e., drug before placebo or placebo before drug), and for measurement of within subject variability (i.e., the subject acting as his or her own control).

h. *Instructions to the subjects.* Subjects are to be given diet instructions, if any, in accordance with the labeling instructions accompanying the drug. Each subject is to keep a daily diary which is to include estimated daily caloric intake, amount of caffeine-containing drink consumed, and amount of the treatment substance under study (i.e., drug or placebo) taken, and time at which it was taken. In addition, each subject is to record daily in the diary any side effects experienced and his or her subjective evaluation of "the feeling of hunger." The evaluation of the feeling of hunger is to be on a four-point scale (none, slight, moderate, or marked).

i. *Measurements of weights during the study.* During the 12 consecutive weeks of the study the subject is to make seven visits to the investigator. The visits are to be weekly for the first 2 weeks and then every 2 weeks. They are to be at the same hour in the morning and on the same day of the week. At each visit, the subject is to be weighed (without clothing except for a standard examination gown) by the investigator or an assistant. The investigator should attempt to arrange visits in such a manner so as to minimize interaction and discussion among the subjects.

j. *Statistical analysis.* The most important outcome variable is weight loss. At least three analyses should be performed.

(1) *An analysis of the weight loss after the first 6 weeks of study.* If the drug is effective, the weight loss of those on the drug should exceed that of those receiving the placebo.

(2) *An analysis of the weight loss after the 12 weeks of the study.* If the drug is effective, the weight loss of those always on the drug is expected to exceed the weight loss of those involved in the crossover schedules (i.e., those taking the drug and placebo). Further, those who are always on the placebo should have the smallest weight loss.

(3) *A comparison of the results of the first 6 weeks with the last 6 weeks.* If the drug is effective, those involved in the crossover schedules should show greater weight loss when on the drug than when on the placebo.

The statistical techniques used in the above analyses should include repeated measure techniques, multiple comparison techniques, and analysis of variance techniques which have sensitivity to ordered alternatives.

If a claim for appetite suppressant is desired in addition, analyses similar to those described above should be performed on the variables "feeling of hunger" and "adherence to diet" (i.e., the difference between the diet instruction and the actual caloric intake).

k. *Number of subjects.* At least 25 subjects should be in each of the 4 groups defined in the "Design of Study" section (for a total sample of at least 100). This sample size requirement is based on the assumption that the average weight loss is 1 pound per week (12 pounds in 12 weeks) for those on the placebo, 1.5 pounds per week (18 pounds in 12 weeks) for those on an effective drug, and 15 pounds in 12 weeks and for those on the crossover schedule. The standard deviation of weight loss for all four groups for 12 weeks is 6 pounds. Twenty-five observations in each group will be sufficient to detect the difference between an effective drug and placebo with a Type I error of 0.05 and a Type II error of 0.20.

1. *Number of studies.* Two studies by different investigators at separate geographic locations are required.

Reference

(1) Metropolitan Life Insurance Company, "Desirable Weights for Men and Women," *Statistical Bulletin, 58:5, 1977.*

2. *Background document on the proposed protocol for evaluation of weight control ingredients.* The preceding proposed protocol for evaluating the effectiveness of drug ingredients for weight control is the result of the Panel's consideration of information from a number of sources. This information came from drug companies' submissions of the results of their research and other relevant medical literature, testimonies delivered at open sessions of the Panel, literature prepared by FDA, and advice given by the Panel's consultants. The following is a commentary on each of the sections of the preceding proposed protocol.

a. *Objective of the study.* The stated objective of the proposed protocol is "to determine the effectiveness of the substance under study in reducing weight." The claims of some firms marketing these weight reducing aids do not include weight reduction. Rather, their claims state that their drugs are effective as "appetite suppressants." Further, some firms recommend that their products should be used as adjuncts to diets because they make dieting easier. The inference, which is not necessarily made in the firms' claims, is that weight reduction will follow. These firms state in their submissions to the Panel that the appropriate variable to determine effectiveness for appetite suppressants is the subjective variable "feeling of hunger." Effectiveness is equivalent to a significant reduction in that feeling. The Panel considered these claims and arguments and decided that if a drug is useful as a weight reducing aid or even solely as an appetite suppressant, then it should be possible to demonstrate that it is effective in reducing weight in obese individuals under well-controlled experimental conditions such as given in the proposed protocol.

b. *Target and sample populations.* The target population for weight control products are persons with obesity which is unrelated to a known disease. The Panel could not find a universally accepted definition of obesity. As a working definition, the Panel viewed obesity as that physical state in which body weight in relation to height and body build is more than 10 percent above the ideal desirable weight determined from the Metropolitan Life Insurance Company table of desirable weights (Ref. *1*). The Panel decided that the sample population (i.e., population from which the sample is chosen) should consist of "persons who have no overt evidence of endocrine disorder or other organic disease predisposing to obesity, and who have exogenous obesity resulting in a weight at least 15 percent and not more than 30 percent above desirable weights." This range (15 to 30 percent) was selected to ensure meaningful statistical data. First, 15 percent was selected as a lower limit to ensure that the subjects in the study would be sufficiently obese so that weight reduction could be expected during the study. Second, inclusion of individuals whose weights exceed 30 percent of ideal would introduce too much variability into the study. These individuals have the potential for large weight reductions. Many of these reductions would be due to simple changes of diet. Unless a very large sample was used, it would be very hard to judge if any weight reductions were associated with the drug.

The Panel also considered the possibility of defining the sample population in terms of pounds overweight rather than percent overweight (e.g., 10 to 50 pounds overweight). There was no justification for believing this could result in an improvement of the study design.

c. *Study setting.* The Panel was concerned that qualified investigators in appropriate settings be used in the study. There was agreement that the drug companies would realize this and that the protocol only had to restate it.

The protocol's wording is, "The study should be conducted by qualified investigators in clinical centers or private practices."

d. *Criteria for admissibility into sample.* The objectives of admissibility criteria are to ensure that the study subjects are healthy, to ensure that they are as homogeneous as possible, to remove sources that could introduce confounding effects into the study, and to eliminate unnecessary sources of variation from the study. The proposed protocol has five admissibility criteria. The first (over 18 years of age) is routine in studies of this nature and eliminates the problem of dealing with weight fluctuations in adolescents. The second (proper medical evaluation to detect pregnancy or cardiac, renal, hepatic, or endocrine dysfunction) ensures that the subjects are healthy and not pregnant and also removes those persons who have organic reasons for being overweight. Inclusion of such persons would confound the study's results. The third criterion eliminates those subjects on medication which might influence response to the study medication or to a weight reduction diet. (The only exception is for women on estrogen therapy.) The fourth criterion eliminates those subjects who are unable to comprehend instructions and adhere to the study protocol. Inclusion of such persons would introduce bad data into the study. The final criterion eliminates those who have dieted within the past year and had a resulting weight loss of 10 percent or more. The Panel was concerned with the possibility of inclusion of those individuals who are constantly on diets and are successful for a short time period in reducing their weight. The Panel felt that such individuals have developed their own "technique for rapid weight loss" and inclusion of them in the study would supply no information about the usefulness of the study medication.

The Panel discussed extensively whether menstruating women should be included in the study. Because some of these women can show weight variations of 3 to 5 pounds monthly, many of the Panel members believed that it was best to exclude them from the study. However, other Panel members pointed out that these women constitute a significant proportion of the users of these drugs. Exclusion of them would make the study unrealistic. The Panel finally decided that they could be included. However, such a study requires more subjects than a study which excludes them. The Panel does not believe that an efficacy study must contain menstruating women as subjects.

e. *Variables to be measured before study.* Before the test medication is given, the subject's weight must be determined. This is required not only to decide upon admissibility into the study, but also for use as a reference point for determining weight loss. The pre-study weight must be as stable as possible. In order to achieve a stable estimate of the pre-study weight, the Panel decided that it should be "determined from two weighings taken on consecutive days and at the same hour in the morning." The subject is to be weighed (without clothing except for a standard examination gown) by the investigator or an assistant.

The Panel also decided that there is a collection of other variables that could influence the outcome of a subject's study response. The Panel believed these should be collected before the study. These variables are age in years, sex, height in inches, subject's usual weight, desirable weight (from the Metropolitan Life Insurance Company's table of desirable weights), percent overweight, usual degree of physical activity, subject's weight pattern over the years, subject's participation in weight reducing programs including diets and medication, estimate of subject's caloric intake for the week before the study, the subject's concept of his or her ideal weight, the subject's subjective evaluation of his or her usual feeling of hunger (none, slight, moderate, or marked), and an estimate of caffeine intake.

f. *Design of study.* The first problem facing the Panel in developing the design of the study was deciding upon the duration of it. Many of the studies reviewed in the drug companies' submissions lasted only 3 to 4 weeks. Even in the extensive review supplied by the FDA, only a few studies exceeded 6 weeks. The Panel was of the opinion that the study it was developing should be of sufficient duration so that, not only would weight reduction be established, but also the maintenance of it would be established. A drug is effective if it is instrumental in reducing weight and in aiding the individual to maintain the weight loss. It was decided that a study of 12 weeks' duration would satisfy the Panel's goal.

The next design problem facing the Panel was deciding whether the study should be a crossover or a parallel sample design. At first the Panel decided upon a placebo-controlled crossover design. The study was to be divided into two 6-week segments. With the crossover design some of the comparisons that are possible are:

(1) Drug vs. placebo for period one (i.e., on first 6 weeks);

(2) Drug vs. placebo for period two (i.e., on second 6 weeks);

(3) Drug followed by placebo (Does the drug have carryover effect?);

(4) Placebo followed by drug (Even after weight reduction with placebo in the first period, can the drug help?);

(5) Drug on period one vs. drug on period two;

(6) Placebo on period one vs. placebo on period two (If subject is on the drug during period one, will it affect the placebo effect during period two?);

(7) Comparison of group one and group two (i.e., those on drug followed by placebo vs. those on placebo followed by drug);

(8) Overall comparison of the drug and placebo;

(9) Comparison of period one and period two.

After some discussion it became obvious that the crossover design would not permit the resolution of some important problems. First, no one subject would be on either the drug or placebo for the full 12 weeks. Analysis and quantification of a 12-week drug effect would not be possible. The Panel wanted this feature to be added to the design. Second, the crossover would not supply the appropriate data to test a claim often made by the drug companies that their drugs are useful in aiding in the development of good dieting habits. (In summary the claim is that at first the drug suppresses the appetite so the subject finds it easier to diet. After a short time period, the drug effect on the appetite wears off, but by then the subject has developed good dieting habits.) In order to test this claim, a comparison must be made between two experimental groups—one group takes the drug for 6 weeks and then takes the placebo for 6 weeks, and the second group takes the placebo for all 12 weeks.

The Panel finally decided that the appropriate design should include features of both a crossover and a parallel sample design. This will allow investigation of the above two items without loss of any of the analyses possible with the crossover.

The Panel realizes that there is a serious potential problem of having a large dropout rate with a 12 week study (especially for those on the placebo for 12 weeks). Still it believes a study such as is being proposed is required to establish efficacy.

g. *Instructions to the subjects.* Routine instructions are to be given to the subjects in the study. They are to be

given the diet instructions, if any, in accordance with the labeling instructions and/or the package insert accompanying the drug. The Panel assumes that each study that uses the proposed protocol will involve the use of a low calorie diet. The subjects should also keep a daily diary which is to include the following: estimated daily caloric intake, amount of caffeine-containing drinks consumed, and the amount of the treatment substance under study (i.e., the drug or placebo) taken and the time at which it was taken. Also, the subjects are to record daily any side effects experienced and their subjective evaluations of "the feeling of hunger" (on a four point scale—none, slight, moderate, or marked). The subjects must be instructed carefully on the use of the diary. The investigators should not admit a subject into the study if it appears the subject cannot comprehend the instructions of the diet for updating the daily diary.

h. *Measurements of weights during the study.* The major requirement here is to fix the schedule of visits to the investigator as much as possible so that unnecessary variables do not confound the study.

i. *Statistical analysis.* The Panel did not want to impose itself excessively here. The major variable is weight loss per week. The analysis must be whether the drug is effective (i.e., Is it more effective than placebo?). Beyond this consideration, the drug companies may investigate any other hypotheses of interest to them. The drug firms should be aware that the sample sizes may need to be increased substantially in order to test appropriately some hypotheses (e.g., if there is a relation of weight loss to age and sex).

j. *Number of subjects.* The submissions from the drug firms did not supply any consistent data from which a determination of appropriate sample size could be made.

In order to make a determination the Panel members were asked to state what they considered to be reasonable estimates of weight loss per week for the placebo and for the drug. The joint opinion of the Panel was that if the study includes a diet, a weight loss of 1 pound per week could be expected for the individuals on the placebo and 1.5 pound per week for the individuals on an effective drug. The weight loss would be greatest at the beginning of the study, and the 1 pound and 1.5 pound figures reflect an average over 12 weeks. Further, an estimate of the range in weight loss over the 12 weeks was given by the Panel as ranging from −6 pounds (i.e., a gain of 6 pounds) to 30 pounds. This corresponds to a standard deviation of about 6 pounds over the 12 weeks. Given the above, the required number of observations can be determined. Using the calculations given in Chapter 14 of Dixon and Massey's text (Ref. *2*) for sample size determination in the one-way analysis of variance, the required sample size is at least 25 observations for each of the 4 groups defined in the section on "Design of study."

The 25 observations per group is the required number that finish the 12 weeks. In order to account for dropouts, more than 25 subjects should be included in each group at the start of the study.

K. *Number of studies.* Two studies by different investigators at two sites are required by the protocol. This is a standard requirement, and the Panel belives it is an essential feature in establishing efficacy. The samples from each of these sites should be representative of the sample population.

References

(*1*) Metropolitan Life Insurance Company, "Desirable Weights for Men and Women," *Statistical Bulletin*, 58:5, 1977.

(*2*) Dixon, W. J., and F. J. Massey, *Introduction to Statistical Analysis*, 3d Ed., McGraw-Hill, New York, 1969.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 (see 46 FR 26052; May 11, 1981), the agency advise in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title of 21 of the Code of Federal Regulations would be amended by adding in Part 357, a new Subpart F, to read as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

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Subpart F—Weight Control Drug Products

Sec.

357. 501 Scope.
357. 503 Definitions.
357. 510 Weight control active ingredients.
357. 520 Permitted combinations of active ingredients.
357. 550 Labeling of weight control drug products.
357. 555 Labeling of premitted combinations.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart F—Weight Control Drug Products

§ 357.501 Scope.

(a) An over-the-counter weight control drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1 of this chapter.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.503 Definition.

Anorectic drug product. An agent that reduces appetite.

§ 357.510 Weight control active ingredients.

The active ingredients of the product in the indicated dosage form, where specified, consist of the following in the dosage limits established for each ingredient in § 357.550(d):

(a) Benzocaine (in gum, lozenges, or candy).

(b) Phenylpropanolamine hydrochloride.

§ 357.520 Permitted combinations of active ingredients.

Phenylpropanolamine hydrochloride described in § 357.510(b) may be combined with caffeine described in § 340.10 provided that the product is labeled as described in § 357.555.

§ 357.550 Labeling of weight control drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "Anorectic."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following statements:

(1) "For appetite control to aid weight reduction."

(2) "An aid for effective appetite control to assist weight reduction."

(3) "Helps curb appetite."

(4) "Appetite depressant in the treatment of obesity (excess weight)."

(5) "An aid to diet control in conjunction with a physician's recommended diet."

(6) "An aid in the control of appetite."

(7) "Helps control appetite."

(8) "For use as an aid to diet control."

(9) "Helps you eat less, weigh less."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing any ingredient identified in § 357.510.* "Do not give this product to children under 12 years of age."

(2) *For products containing phenylpropanolamine hydrochloride identified in § 357.510(b).* (i) "Do not exceed recommended dosage."

(ii) "If nervousness, dizziness, or sleeplessness occurs, stop taking this medication and consult your physician."

(iii) "If you are being treated for high blood pressure or depression, or have heart disease, diabetes, or thyroid disease, do not take this product except under the supervision of a physician."

(iv) "If you are taking a cough/cold or allergy medication containing any form of phenylpropanolamine, do not take this product."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions":

(1) *For products containing benzocaine identified in § 357.510(a).* "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to periods not exceeding 3 months, because that should be enough time to establish new eating habits. Adult oral dosage is 3 to 15 milligrams just prior to eating or as directed by a physician."

(2) *For products containing phenylpropanolamine hydrochloride identified in § 357.510(b).* "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to periods not exceeding three months, because that should be enough time to establish new eating habits. Adult oral dosage is 25 to 50 milligrams in a single dose and not exceeding 150 milligrams daily in divided doses 30 minutes before meals or as directed by a physician."

§ 357.555 Labeling of permitted combinations.

The labeling of combinations identified in § 357.520 contains the following:

(a) *Statement of identity.* The labeling of the product contains the established names of the ingredients and identifies the product as an "Anorectic/Stimulant."

(b) *Indications.* The indication used for this product will be a consolidation of the requirements of § 340.50(b) and § 357.550(b) of this chapter, such as "A combination of an aid for effective appetite control to assist weight reduction and a stimulant that helps restore mental alertness or wakefulness when experiencing fatigue or drowsiness." Such a statement will be followed immediately by this statement: "This product is for use only by individuals who become fatigued because of dieting."

(c) *Warnings.* The warnings used for this product contain all those specified in § 340.50(d) and § 357.550(c) of this chapter.

(d) *Directions.* The directions used for this product contain all those specified in § 340.50(d) and § 357.550(d) (1) and (3) of this chapter.

Interested persons may, on or before May 27, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. Three 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. Comments replying to comments may also be submitted on or before June 28, 1982. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 3, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: February 8, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–4782 Filed 2–25–82; 8:45 am]

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federal register

Friday
February 26, 1982

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

Minnesota: MN82–2010
Pennsylvania: PA82–3008

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas: AR81–4041	June 19, 1981.
Alabama: AL81–1125	Dec. 30, 1980.
California:	
CA81–5119	May 15, 1981.
CA81–5129	July 6, 1981.
CA81–5132	July 10, 1981.
CA81–5154	Sept. 25, 1981.
Delaware: DE81–3028	May 8, 1981.
Iowa:	
IA81–4021	April 19, 1981.
IA81–4091	Nov. 13, 1981.
IA81–4092	Nov. 27, 1981.
IA81–4093	Nov. 27, 1981.
Kansas: KS81–4053	Oct. 2, 1981.
Louisiana:	
LA81–4086	Nov. 6, 1981.
LA81–4084	Nov. 6, 1981.
Michigan: MI81–2058	Oct. 30, 1981.
Pennsylvania: PA81–3041	July 6, 1981.
Rhode Island: RI81–3042	Aug. 21, 1981.
Texas:	
TX81–4078	Oct. 2, 1981.
TX82–4005	Jan. 29, 1982.
Washington: WA81–5163	Dec. 4, 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. Superseadeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL81–1295(AL82–1014)	Oct 9, 1981.
Colorado: CO81–5146(CO82–5104)	Sept. 4,1 981.
Michigan:	
MI81–2035(MI82–2007)	July 6, 1981.
MI81–2036(MI82–2012)	July 6, 1981.
MI81–2058(MI82–2005)	Aug. 28, 1981.
Mississippi:	
MS81–1225(MS82–1008)	May 8, 1981.
MS81–1226(MS82–1009)	May 8, 1981.
MS81–1227(MS82–1010)	May 8, 1981.
MS81–1228(MS82–1011)	May 8, 1981.
MS81–1229(MS82–1012)	May 8, 1981.
MS81–1230(MS82–1013)	May 8, 1981.
New Hampshire: NH81–3010(NH82–3009)	Jan. 23, 1981.
New Jersey: NJ80–3024(NJ82–3006)	May 2, 1980.
Pennsylvania: PA81–3060(PA82–3007)	Oct. 3, 1980.
Wisconsin: WI81–2027(WI82–2004)	Apr. 18, 1980.

Signed at Washington, D.C. this 19th day of February 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

NEW DECISION

STATE: MINNESOTA
DECISION NO.: MN82-2010
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

COUNTIES: *SEE BELOW
DATE: Date of Publication

*AITKIN, CROW WING, ITASCA, KANABEC, KOOCHICHING, MILLE LACS, & MORRISON

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$11.37				
CEMENT MASONS	11.52				
LABORERS:					
Common	8.07				
Ditch	9.75	.60	.15		
Landscape	9.00				
Pipelayers	9.85	.60	.15		
Rakers	7.56	.56	.47		
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor Spreader; Paver; Pickup Sweeper; Roller Finish & Self Propelled; Tractor, Bulldozer over D2; & Turnapull	13.17	.95	.70		.05
Asphalt Plant; Cranes, Derricks & Draglines; Crushing & Screening Plant; & Motor Patrols	13.42	.95	.70		.05
Boring Machine	9.17				
Fireman; Roller; & Tractor, Rubber Tired Backhoe	9.33	.56	.47		
Front End Loader; & Tractor, Bulldozer, D2	10.20	.56	.47		
Front End Loader up to 1 cu. yd.	11.23				
Grader	11.71				
Mechanic	11.13	.56	.47		
Oiler	12.08	.95	.70		.05
Screedman	11.64	.95	.70		.05
Shouldering Machine	10.43				
TRUCK DRIVERS:					
Bituminous Distributor Driver	9.48				
Dumpmen	11.20	1.15	.65		
Five Axle	9.76	.56	.47		
Four Axle	8.91				
Lowboy	12.05	1.15	.60		
Mechanical Broom Driver	9.33	.56	.47		
Packer	9.36				
Single Axle	8.56				
Tandem	11.40	1.15	.65		

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)).

NEW DECISION

STATE: PENNSYLVANIA
DECISION NO.: PA82-3008
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	12.97	2.63	1.40	a	.13
CEMENT MASONS	11.60	2.09	2.60		
ELECTRICIANS:					
Philadelphia (only)	15.75	1.10	3%+.95		.28
IRONWORKERS:					
Structural & Ornamental Philadelphia (only)	15.00	1.49	1.46		.04
IRONWORKERS:					
Rigger, machinery mover Philadelphia (only)	14.78	1.49	1.46		
LABORERS:					
Group 1	11.30	.95	.85		.25
Group 2	11.10	.95	.85		.25
Group 3	11.00	.95	.85		.25
Group 4	11.15	.95	.85		.25
Group 5	10.90	.95	.85		.25
Group 6	11.55	.95	.85		.25
Group 7	11.40	.95	.85		.25
Group 8	11.25	.95	.85		.25

LABORERS CLASSIFICATIONS

Group 1 - Powderman, multiple wagon drill op. under pinning excavation, bottom men

Group 2 - Finished surface asphalt rakers ops., pipelayers, caulkers conduit and duct layers

Group 3 - Other pneumatic tools ops., labor stripping concrete forms, carrying or handling lumber, steel & steel mesh and other concrete materials, form pinners, tool room men, mortar mixers, concrete pitman & spaders, grademen, asphalt shovelers, men working in shoring, men working in lagging, laborers assistance in the setting of cut stone, granite or artifical stone, hod carriers, scaffold builders, all other laborers on construction with the exception of workers in compressed air

Group 4 - Wagon drill operators

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tunnel Compressed Air:					
Laborers:					
Blasters, shield drivers	116.25	.95	.85		
Miners, miner's bore driver	120.00	.95	.85		
Brakemen, trackmen, miners, helpers, groutmen, iron men, maintenance man, pump men, electrician, cement finisher, carpenters, hydraulic men, monorail men, conveyor men, powder carriers, pan men, conveyor men, powder carriers, pan men, riggers, lock tenders' helpers, nippers, derailed men, cablemen, hosemen, gravel men	107.73	.95	.85		
Mucking machine operators	124.00	.95	.85		
Laborers (Surface) per hour	9.75	.95	.85		
Between Locks					
Lock tenders, motor men	112.81	.95	.85		
All other men	107.73	.95	.85		
Outside of Locks					
Outside lock tenders, gauge tenders	107.73	.95	.85		
Outside lock tenders' helpers	102.65	.95	.85		

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Air Pressure	AMOUNT IN ADDITION TO BASE RATE (NOT CUMULATIVE)
15 lb. up to but less than 26 lb.	1.50
26 lb. up to but less than 31 lb.	2.00
31 lb. up to but less than 36 lb.	2.50
36 lb. up to but less than 41 lb.	3.00
41 lb. or more	3.50

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPING:					
Landscape Laborers	8.30	.95	.85	b	
Farm Tractor Driver	8.80	.95	.85	b	
Hydroseeder Nozzlemen	8.80	.95	.85	b	
Mulcher Nozzlemen	8.80	.95	.85	b	
LINE CONSTRUCTION					
Journeyman Lineman	16.27	.60	3%		3%
Winch truck operator	11.39	.60	3%		3%
Groundman	9.76	.60	3%		3%
LINE CONSTRUCTION (RAILROAD ONLY)					
Linemen					
"A" equipment operator	13.28	.60	3%	c	.75%
"B" equipment operator	11.61	.60	3%	c	.75%

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CLASSIFICATION DEFINITIONS FOR LINE CONSTRUCTION (RAILROAD ONLY)

"A" Equipment Operators:

1. Hoisting equipment - when erecting complete towers, erecting framed structures, erecting steel transmission poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets.

2. Tension pulling equipment under energized conditions - parallel with other energized circuits or above energized circuits on the same structure, not to include crossovers. Bundled conductor stringing, including static conductors on bundled conductor lines.

3. Excavating augurs 36" inches in diameter or larger, 5/8 cubic yard backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar) or larger, and blade on finish grade work

"B" Equipment Operators:

Operators of all other equipment

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS:					
Philadelphia (only)	13.02	2.63	1.40		.13
PILEDRIVERMEN	12.97	3.13	1.40	e	.13
POWER EQUIPMENT:					
HEAVY CONSTRUCTION					
Wage Group 1	14.58	10%	10.3%	d	1.3%
Wage Group 2	14.32	10%	10.3%	d	1.3%
Wage Group 3	13.45	10%	10.3%	d	1.3%
Wage Group 4	13.24	10%	10.3%	d	1.3%
Wage Group 5	12.93	10%	10.3%	d	1.3%
Wage Group 6	12.76	10%	10.3%	d	1.3%
Wage Group 7	12.25	10%	10.3%	d	1.3%
Wage Group 8	11.51	10%	10.3%	d	1.3%

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HEAVY CONSTRUCTION CLASSIFICATION DEFINITIONS

Group 1 - Handling steel and stone in connection with erection, crane, doing hook work, any machines handling machinery, cable spinning machine, helicopters, machines similar to above

Group 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones all types of shovels derricks, trench shovels, trenching machines, pippin type backhoes, hoist with two towers, pavers 21E and over, all types overhead cranes building hoists - double drum (unless used as single drum), mucking machines in tunnel, gradalls, front-end loaders 3½ cu. yds. & over, Boat Captain, tandem scrapers, tower type crane operation, erecting, dismantling, jumping or jacking, drills self- contained (drill-master type), fork lift (20 ft. and over), motor patrols (fine grade) batch plant with mixer, machines similar to the above

Group 3 - Conveyors (except building conveyors), building hoist (single drum), scrapers and tournapulls, asphalt engineer, roller (high grade finishing) front end loaders under 3½ cu. yds., mechanic-welder, spreaders high or low pressure boilers concrete pumps, well drillers, fork lift trucks of all types, bulldozers and tractors, ditch winch type trencher, motor patrol, machines similar to the above

Group 4 - Concrete breaking machines rollers machines similar to the above

Group 5 - Seaman pulverizing mixer tireman on power equipment maintenance engineer (power boat) machines similar to the above

Group 6 - Conveyors (building) welding machines, heaters, wellpoints, compressors, fram tractors, fine grade machines, form line graders, road finishing machines, form line graders, road finishing machines, pumps, power broom (self-contained), seed spreader, machines similar to the above

Group 7 - Fireman, grease truck

Group 8 - Oilers and deck hands (personnel boats), grease truck helper

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION:					
Wage Group 1	14.33	10%	10.3%	d	1.3%
Wage Group 2	14.10	10%	10.3%	d	1.3%
Wage Group 3	13.49	10%	10.3%	d	1.3%
Wage Group 4	12.97	10%	10.3%	d	1.3%
Wage Group 5	12.60	10%	10.3%	d	1.3%
Wage Group 6	12.25	10%	10.3%	d	1.3%
Wage Group 7	11.51	10%	10.3%	d	1.3%

HIGHWAY CONSTRUCTION CLASSIFICATIONS

Wage Group 1 - Handling steel and stone in connection with erection, cranes doing work, and machine handing machinery, helicopters, machines similar to the above

Wage Group 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, pavers 21E and over, trenching machines, gradalls, front-end loaders 3½ c.y. and Over, boat captain, pippin type backhoes, tandem scrapers, tower type crane operation erecting, dismantling, jumping or jacking, drills self-contained, (drillmaster type), forklift (20 ft. and over), motor patrols (fine grade), batch plant with mixer, machines similar to the above

Wage Group 3 - Carryalls, scrapers, tournapulls, asphalt plant engineers, roller (high grade finishing) front-end loaders under 3½ c.y., spreaders (asphalt), concrete pumps, well drillers, bulldozers and tractors, ditch witch (small trencher), motor patrols, mechanic welder, machines similar to the above

Wage Group 4 - Conveyor loader, seaman pulverizer, ten-ton roller (grader fill stone base) concrete breaking machines, machines similar to the above

Wage Group 5 - Form line grader, fine grade machines, farm tractors, road finishing, concrete spreaders, compressors, power broom self contained, seed spreader, pumps, welding machines, tireman, power equipment, maintenance engineers (power boats), machines similar to the above

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HIGHWAY CONSTRUCTION CLASSIFICATIONS CONT'D

Wage Group 6 - Fireman, grease truck

Wage Group 7 - Oilers and deckhands (Personnel Boats), grease truck helper

FOOTNOTES:

a. Paid Holiday: Labor Day
b. Paid Holidays: July 4th, Labor Day, and Thanksgiving Day
c. Paid Holidays: New Year's Day; Decoration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Good Friday
d. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing the employee works the day before and after the holiday
e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day; Thanksgiving Day and Christmas Day.

"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)."

DECISION NO. PA82-3008	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY TRUCK DRIVERS:					
Including Site Preparation, Paving and Utilities on Building Construction					
Class 1	10.20	1.0675	1.225	a+b	
Class 2	10.30	1.0675	1.225	a+b	
Class 3	10.50	1.0675	1.225	a+b	

SITE PREPARATION, PAVING AND UTILITIES CLASSIFICATIONS

Class 1: Helpers, stake body truck (single axle, dumpster)

Class 2: Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

Class 3: Euclid type, off-highway equipment or belly dump trucks and double hitched equipment, staddle (ross) carrier, low-bed trailers

FOOTNOTES:

a. Employee will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days per calendar year. During each two (2) consecutive months period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and Veterans Day and five (5) personal holidays provided such employee work the scheduled work days before and after said holiday; and employee gives employer one (1) week's notice requesting a personal holiday. The eligibility for personal holidays will be as follows: Employee will earn one (1) personal holiday every two (2) months up to a maximum of five (5) personal holidays per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all personal holidays.

DECISION #AR81-4041-Mod. #7 46FR32179-June 19, 1981 Garland, Hot Springs and Clark Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: Modification Number seven published in FR dated February 12, 1982 to read "Modification Number six."					
Decision #AL81-1125 - Mod.#1 (45 FR 86185 - December 30, 1980) Barbour, Coffee, Covington, Dale, Geneva, Henry, Houston, and Russell Counties, AL. DELETE Russell County from area Covered					

MODIFICATION PAGE 2

DECISION NO. CA81-5119 - Mod. #5
(46 FR 27017 - May 15, 1981)

Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Solano, Sonoma, Sutter, Tuolumne, Yolo and Yuba Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
GLAZIERS:					
Area 1:	$19.56	1.30	3.10		.13
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.81	2.50	.12
Structural, Ornamental and Reinforcing	15.75	1.44	3.81	2.50	.12
PAINTERS:					
Area 5:					
Brush	18.51	1.65	2.12	1.20	.06
Spray	19.01	1.65	2.12	1.20	.06
Tapers	19.31	1.65	2.12	1.20	.06
Area 7:					
Brush	18.62	1.65	2.12	1.20	.06
Spray	19.12	1.65	2.12	1.20	.06
Tapers	19.42	1.65	2.12	1.20	.06
SOFT FLOOR LAYERS:					
Area 3:	17.19	1.15	2.25	2.00	.24

DECISION NO. CA81-5129 - Mod. #7
(46 FR 34961 - July 6, 1981)

Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
Area 4:					
Electricians	$19.32	1.40	3%+2.95		.12
Cable Splicers	19.92	1.40	3%+2.95		.12
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.77	2.50	.12
Ornamental; Reinforcing; Structural	15.75	1.44	3.77	2.50	.12
SOFT FLOOR LAYERS:					
Area 2:	16.37	.98	1.40	1.08	.08

MODIFICATION PAGE 3

DECISION NO. CA81-5132 - Mod. #6
(46 FR 35860 - July 10, 1981)

Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Al Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
GLAZIERS:					
Area 1:	$19.56	1.30	3.10		.13
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.81	2.50	.12
Structural, Ornamental, Reinforcing	15.75	1.44	3.81	2.50	.12
PAINTERS:					
Area 2:					
Brush; Tapers	15.48	.81	.30		
Spray; Structural Steel	15.98	.81	.30		
Area 6:					
Brush	18.51	1.65	2.12	1.20	.06
Spray; Sandblasting; Steam Cleaning	19.01	1.65	2.12	1.20	.06
Drywall Finisher	19.31	1.65	2.12	1.20	.06
Brush (exterior stage) 5,6 and 7 story bldgs. erected steel over 50 feet	19.66	1.65	2.12	1.20	.06
Area 9:					
Brush	18.62	1.65	2.12	1.20	.06
Spray	19.12	1.65	2.12	1.20	.06
Tapers (paint)	19.42	1.65	2.12	1.20	.06
SOFT FLOOR LAYERS:					
Area 3:	17.19	1.15	2.25	2.00	.24
Area 5:	17.21	1.15	2.25	2.00	.24
ELECTRICIANS:					
Area 12:					
Electrician	19.57	1.54	3%+2.50		.05
Cable Splicer	22.02	1.54	3%+2.50		.05

DECISION NO. CA81-5154 - Mod. #9 (46 FR 47384 - September 25, 1981) Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Cos., California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
Area 3:					
Electricians, Technicians	$19.32	1.40	3%+2.95		.12
Cable Splicers	19.92	1.40	3%+2.95		.12
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.77	2.50	.12
Structural, Ornamental, Reinforcing	15.75	1.44	3.77	2.50	.12
LINE CONSTRUCTION:					
Groundman	14.49	1.40	3%+2.95		.12
Lineman	19.32	1.40	3%+2.95		.12
Cable Splicers	19.92	1.40	3%+2.95		.12
SOFT FLOOR LAYERS:					
Area 2:	16.37	.98	1.40	1.08	.08
DECISION NO. DE81-3028 MOD. NO. 10 (46 FR 25909 - May 8, 1981) State of Delaware					
CHANGE:					
Bricklayers & Stonemasons	$12.90	1.19	1.36		
Cement Masons:					
Building	11.90	1.60	1.15		
Heavy	11.95	1.60	1.15		
Electricians	15.31	1.17	3%+1.00		
Line Construction					
Linemen, Cable Splicer	15.72	.60	3%		3/4 of 1%
Winch truck operator	11.00	.60	3%		3/4 of 1%
Truck Driver	10.22	.60	3%		3/4 of 1%
Groundman	9.43	.60	3%		3/4 of 1%
Marble Setters	12.68	1.19	1.36		
Terrazzo Workers & Tile Setters	12.68	1.19	1.36		

DECISION NO. IA81-4021 - MOD. #3 (46 FR 21560 - April 19, 1981) Statewide Iowa (except Scott County)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Black Hawk, Linn & Polk Cos. & the Cities of Ames, Dubuque & Iowa City:					
Carpenters:					
Carpenters & pile-drivermen	$11.12	.60	.40		
Laborers - Group 1	9.76	.65	.50		.05
Group 2	9.46	.65	.50		.05
Group 3	9.26	.65	.50		.05
Power equipment ops.:					
Group 1	11.91	.90	.90		.10
Group 2	11.26	.90	.90		.10
Cities of Burlington & Clinton & Burlington Ordnance Plant:					
Carpenters:					
Carpenters & pile-drivermen	11.12	.60	.40		
Laborers - Group 1	9.76	.65	.50		.05
Group 2	9.46	.65	.50		.05
Group 3	9.26	.65	.50		.05
Cities of Fort Dodge & Mason City:					
Carpenters:					
Carpenters & pile-drivermen	9.88	.60	.40		
Laborers - Group 1	9.11	.65	.50		.05
Group 2	8.81	.65	.50		.05
Group 3	8.61	.65	.50		.05
Power equipment ops.:					
Group 1	11.91	.90	.90		.10
Group 2	11.26	.90	.90		.10
Group 3	10.56	.90	.90		.10
OMIT:					
Cities of Fort Dodge & Mason City:					
Power equipment ops.:					
Group 4	10.56	.90	.90		.10

MODIFICATION PAGE 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IA81-4091 - MOD. #3 (46 FR 56123 - November 13, 1981) Dubuque County, Iowa					
CHANGE: Building, water treatment plants & sewage disposal plants construction:					
Cement masons	$13.93				
DECISION NO IA81-4092 - MOD. #3 (46 FR 58025 - November 27, 1981) Johnson County, Iowa					
CHANGE: Building, water treatment plants & sewage disposal plants construction:					
Cement masons	13.67	.90			
DECISION NO. IA81-4093 - MOD. #3 (46 FR 58018 - November 27 1981) Linn County, Iowa					
CHANGE: Building, water treatment plants & sewage disposal plants construction:					
Cement masons	13.67	.90			

MODIFICATION PAGE 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS81-4053-Mod. #4 (46 FR 48847-OCTOBER 2, 1981) LEAVENWORTH COUNTY, KANSAS					
Change:					
Painters:					
Brush, roller, tapers	$13.59	.55	.75		
Spray	14.59	.55	.75		
Paperhangers	14.09	.55	.75		
DECISION NO. LA81-4086 - MOD. #6 (46 FR 55189 - November 6, 1981) Statewide Louisiana					
CHANGE:					
Glaziers:					
Zone 1	$14.05			c+d	.02
Zone 3	13.80	.32	.40		.01
Laborers:					
Zone 4:					
Group 1	9.30	.40	.27		.05
Group 2	9.40	.40	.27		.05
Group 3	9.45	.40	.27		.05
Zone 5:					
Group 1	8.90	.40	.27		.05
Group 2	9.00	.40	.27		.05
Group 3	9.05	.40	.27		.05
DECISION NO. LA81-4084 - MOD. #6 (46 FR 55203 - November 6, 1981) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE:					
Glaziers:					
Calcasieu Parish	14.05			c+d	.02

DECISION #MI81-2058 - Mod. #1
(46 FR 53929 - October 30, 1981)
Statewide, Michigan

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Zone 3 LP	$13.44	.85	1.00		.05
IRONWORKERS:					
Zone 3	14.40	1.00	2.68		.03
SIGN INSTALLERS:					
Zone 1 -					
Class A	11.4975	a 39.50	a 51.00		
Class B	11.2475	a 39.50	a 51.00		
Zone 2 -					
Class A	10.6975	a 39.50	a 51.00		
Class B	10.4475	a 39.50	a 51.00		
TRUCK DRIVERS: (Underground)					
Zone 7 -					
Class 1	10.47	a 39.50	a 30.00		
Class 2	10.37	a 39.50	a 30.00		
Class 3	10.57	a 39.50	a 30.00		
Class 4	10.67	a 39.50	a 30.00		

FOOTNOTE:

a. Per week, per employee.

DECISION NO. PA81-3041
MOD. NO. 6
(46 FR 34934 - July 6, 1981)
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington & Westmoreland Counties, Pennsylvania

ADD:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Structural, Ornamental & Reinforcing					
Zone 3	$14.24	1.20	2.61		.07

AREA COVERED BY IRONWORKERS ZONE

ZONE - 3 - Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Fayette, Indiana, Washington & Westmoreland Counties

DECISION NO. RI81-3042 -
MOD. #4
(46 FR 42615 - August 21, 1981)
STATEWIDE, RHODE ISLAND

ADD:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS, Residential (4 stories or less)	10.40	.90	2.00		.05

MODIFICATION PAGE 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4078 - MOD. #4 (46 FR 48865 - October 2, 1981) Bexar County, Texas					
CHANGE:					
Marble setters	$12.22	.67	.30	.25	
Terrazzo workers	12.22	.67	.30	.25	
Tile setters	12.22	.67	.30	.25	
DECISION NO. TX82-4005 - MOD. #1 (47 FR 4465 - January 29, 1982) Jefferson & Orange Cos., Texas					
CHANGE:					
Plumbers	15.71	.95			.04
DECISION NO. WA81-5163 - Mod. #6 (46 FR 59457 - Dec. 4, 1981) Statewide Washington					
CHANGE:					
ELECTRICIANS:					
Area 2:					
Electricians	$19.32	.95	3%+1.80		.10
Cable Splicers	20.29	.95	3%+1.80		.10
Area 4:					
Electricians	20.37	.98	3%+2.05		.10
Cable Splicers	22.41	.98	3%+2.05		.10

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTY: MONTGOMERY
DECISION NUMBER: AL82-1014 DATE: Date of Publication
Supersedes Decision No.: AL81-1295 dated October 9, 1981 in 46 FR 50222.
DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A/C & HEATING MECHANICS	$7.22				
BRICKLAYERS	7.63				
CARPENTERS	7.37				
CEMENT MASONS	7.60				
ELECTRICIANS	7.71				
GLAZIERS	10.20	.60	.80		a
IRONWORKERS, Reinforcing	5.00				
LABORERS	4.00				
PAINTERS	6.85				
PLASTERERS	7.69				
PLUMBERS & PIPEFITTERS	7.95				
SCRAPERS	5.00				
ROOFERS	6.45				
SHEET METAL WORKERS	6.00				
SPRINKLER FITTERS	8.05				
SOFT FLOOR LAYERS	6.00				
TILE SETTERS	7.25				
TRUCK DRIVERS	4.00				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Scraper	5.00				
Backhoe	5.37				
Rakers/Lutemen	5.00				
Motor Patrol	6.40				
Bulldozer	5.25				
Front End Loader	4.50				
Spreader	5.75				
Screed	5.00				
Roller	4.79				
Asphalt Distributor	4.50				
Asphalt Raker	4.77				

FOOTNOTE:
a. Six paid holidays-New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day.

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: El Paso
DECISION NUMBER: CO82-5104 DATE: Date of Publication
Supersedes Decision No. CO81-5146 dated September 4, 1981, in 46 FR 44607
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.39	.75	$1.49		
BOILERMAKERS	14.97	1.375	1.10		.05
BRICKLAYERS; Stonemasons	14.05	.85	.95		.06
CARPENTERS:					
Zone 1: 0-40 miles from Post Office in Colorado Springs	12.22	1.10	1.00	1.00	.10
Zone 2: 40-75 miles from Post Office in Colorado Springs	12.72	1.10	1.00	1.00	.10
Zone 3: 75 miles and over	12.97	1.10	1.00	1.00	.10
CEMENT MASONS:					
Cement Masons	12.04	.59	1.15		.13
Working with composition materials and color	12.54	.59	1.15		.13
Working on temporary platform over 25'	12.29	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS	15.90	1.00	3%+1.00		.015
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
GLAZIERS	15.32	.92	.60	b	
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	14.35	1.19	1.35		.17
MARBLE SETTERS	13.31	.85	1.15		.05
MILLWRIGHTS	14.66	1.10	1.00		.29
PAINTERS:					
Brush and Roller; Tapers, hand texture	11.54	.95	.70		.04
Paperhangers; Steel Brush	12.04	.95	.70		.04
Spray Painters	12.29	.95	.70		.04
Steel, Spray	12.79	.95	.70		.04
PLASTERERS	13.44				.01
PLUMBERS; Pipefitters	14.80	1.00	1.50	1.60	.10
ROOFERS	12.36	.84	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$15.96	3%+.90	$1.76		.17
SOFT FLOOR LAYERS	13.14	.80	1.30	1.00	.13
SPRINKLER FITTERS	15.31	.95	1.40		.08
TERRAZZO WORKERS	15.53	1.30	1.45		.04
TILE SETTERS	13.31	.85	.70		
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Base Grinders	10.25	1.20	1.30	.50	
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F, plus the Friday after Thanksgiving Day
b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.40	$9.90	.84	.70	.50	.05
Group 2	9.68	10.18	.84	.70	.50	.05
Group 3	10.20	10.70	.84	.70	.50	.05

Group 1: Building Construction Laborer

Group 2: Laborers - Underpinning and Shoring eight (8) feet or more below working surface. Power tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels. Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 3: Pipelayers on Building Construction. Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work. Tender, Mason and Plaster

ZONE DESCRIPTIONS

ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in Colorado Springs

ZONE 2: That area encompassed by 30 or more driving miles from the Main Post Office in Colorado Springs

POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises):	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$11.60	$11.80	$1.03	$1.20	.60	.12
Group 2	11.95	12.70	1.03	1.20	.60	.12
Group 3	12.30	13.05	1.03	1.20	.60	.12
Group 4	12.45	13.20	1.03	1.20	.60	.12
Group 5	12.60	13.35	1.03	1.20	.60	.12
Group 6	12.75	13.50	1.03	1.20	.60	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	11.75	12.50	1.03	1.20	.60	.12
Group 2	12.10	12.85	1.03	1.20	.60	.12
Group 3	12.20	12.95	1.03	1.20	.60	.12
Group 4	12.45	13.20	1.03	1.20	.60	.12
Group 5	12.60	13.35	1.03	1.20	.60	.12
Group 6	13.00	13.75	1.03	1.20	.60	.12
Group 7	12.75	13.50	1.03	1.20	.60	.12

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' classifications

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts, and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl inlcuding pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.36	.94	.70	.40	
Group 2	9.46	.94	.70	.40	
Group 3	9.56	.94	.70	.40	
Group 4	9.60	.94	.70	.40	
Group 5	9.66	.94	.70	.40	
Group 6	9.71	.94	.70	.40	
Group 7	9.76	.94	.70	.40	
Group 8	9.81	.94	.70	.40	
Group 9	9.91	.94	.70	.40	
Group 10	9.96	.94	.70	.40	
Group 11	10.06	.94	.70	.40	
Group 12	10.21	.94	.70	.40	
Group 13	10.26	.94	.70	.40	
Group 14	10.36	.94	.70	.40	
Group 15	10.46	.94	.70	.40	
Group 16	10.56	.94	.70	.40	
Group 17	10.66	.94	.70	.40	
Group 18	10.86	.94	.70	.40	

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MICHIGAN
DECISION NUMBER: MI82-2007
COUNTIES: SEE BELOW
DATE: DATE OF PUBLICATION
Supersedes Decision Number MI81-2035, dated July 6, 1981, in 46 FR 34993.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories) and HEAVY CONSTRUCTION PROJECTS (excluding Bridge, Airport, & Sewer Projects).

COUNTIES: BAY, GENESEE, HURON, IOSCO, LAPEER, SAGINAW, ST. CLAIR, SANILAC, SHIAWASSEE, & TUSCOLA.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$16.21	2.84	1.97		.07
Remainder of Counties	15.33	1.35	2.25		
BOILERMAKERS	18.315	1.375	1.75		.05
BRICKLAYERS & STONE MASONS:					
Genesee, Lapeer, & Shiawassee Counties	14.72	1.20	1.65		.06
St. Clair & Sanilac Counties	15.68	1.40	1.30		
Remainder of Counties	14.02	1.0[illegible]	1.15		
CARPENTERS, PILEDRIVERMEN, & SOFT FLOOR LAYERS:					
Sanilac (except the west 5 mi. portion of county) & St. Clair Counties:					
Carpenters & Piledrivermen	17.205	1.25	11%		.05
Soft floor layers	15.21	1.25	9%		
Remainder of Counties:					
Carpenters & Piledrivermen	14.60	.85	1.00		.02
Soft floor layers	13.07	.85	1.00		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	14.80	1.60	1.40		
Lapeer County	13.40	1.20	1.65		.02
Genesee & Shiawassee Counties	12.80	.90	1.25		
Remainder of Counties	13.32	1.05	1.15		
ELECTRICIANS:					
Iosco (Northern ½) County:					
Contracts over $35,000.00	14.19	.85	3% + 1.18		1/10 of 1%
Contracts under $35,000.00	11.35	.85	3% + 1.18		1/10 of 1%
Bay & Iosco (Southern ½) Counties	15.82	.85	3% + 1.18		½ of 1%
Genesee, Lapeer, & Shiawassee Counties	15.71	.85	14%		
Saginaw & Tuscola Counties	15.05	1.05	3% + 1.50		½ of 1%
Remainder of Counties	17.80	1.85	3% + 1.45		.06
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Mechanics	17.00	1.345	.95	a	.035
Helpers	11.90	1.345	.95	a	.035
Probationary helpers	8.50				
Remainder of Counties;					
Mechanics	15.53	1.345	1.085	a	.035
Helpers	10.87	1.345	1.085	a	.035
Probationary helpers	7.765				

DECISION NO. MI82-2007

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Genesee, Lapeer, & Shiawassee Counties	$13.14	1.14	1.15		.02
St. Clair & Sanilac Counties	14.69	.85	1.45		.02
IRONWORKERS:					
Structural & Ornamental	14.98	11%	18%	18%	.09
Reinforcing	13.08	1.98	19%	19%	.64%
Fence Erectors	12.80	9%	17%	18%	.09
LABORERS:					
Iosco County:					
General laborers	9.50	.75	.65		.04
Mortar mixers, plaster mixers, sewer & caisson workers, plasterer tenders, vibrator ops., operators of concrete mixers, chipping hammers, concrete breakers (90 lb. hammers or less), tamping machines, motor driven buggies, & sand blasters	9.65	.75	.65		.04
Cement gun nozzlemen	10.10	.75	.65		.04
LATHERS	13.91	1.06	1.00		.01
MARBLE, TILE, & TERRAZZO WORKERS:					
Genesee, Lapeer, & Shiawassee Counties	14.30	.90	1.65		
St. Clair, Sanilac Counties:					
Marble setters	15.93	1.00	2.25		
Tile setters	15.32	1.00	2.25		
Terrazzo workers	14.77	1.00	2.25		
Remainder of Counties	14.36		.40		
PAINTERS:					
Bay, Huron (West of M-53), Iosco, & Tuscola (Townships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta, & Wisner) Counties:					
New Construction:					
Brush, roller, & taper	12.55	.65	1.00		
Spray & sandblast	13.40	.65	1.00		
Repaint Work:					
Brush, roller, taper	11.95	.65	1.00		
Spray & sandblast	12.80	.65	1.00		
Industrial Work:					
Brush, roller, & taper	13.35	.65	1.00		
Spray & sandblast	14.20	.65	1.00		

DECISION NO. MI82-2007

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Saginaw & Tuscola (Remainder of County) Counties:					
Brush & Roller	$12.60	.65	1.05		.02
Wall covering, open structural steel, swing stage, & boatswain chair	13.20	.65	1.05		.02
Sandblast & Spray	13.35	.65	1.05		.02
Shiawassee County (Western ½):					
Brush & Roller & Drywall (hand)	14.80	.65	.40		.0025
Structural steel towers	15.20	.65	.40		.0025
Spray, sandblast, & drywall (machine)	15.55	.65	.40		.0025
Paperhanging	15.15	.65	.40		.0025
Genesee, Lapeer, Shiawassee (Remainder of County) Counties:					
Brush & Roller	12.75	1.10	1.05		
Spray, paper & vinyl hangers, swing stage, boatswain chair, & window jacks	13.05	1.10	1.05		
Sandblast & steamcleaning	13.25	1.10	1.05		
Drywall taper (Hand)	13.15	1.10	1.05		
Drywall taper (Machine)	13.50	1.10	1.05		
Drywall sander	11.75	1.10	1.05		
Huron (Remainder of County), St. Clair, & Sanilac Counties:					
New Construction:					
Brush & Roller	15.71	.70	1.00		.02
Spray & Sandblast	16.21	.70	1.00		.02
Repaint Work:					
Brush & Roller	14.14	.70	1.00		.02
Spray & Sandblast	14.59	.70	1.00		.020
PLASTERERS:					
Lapeer County	13.65	1.20	1.65		
Bay, Huron, Iosco, Saginaw, & Tuscola Counties	14.32	1.05	.40		
Genesee & Shiawassee Counties	12.00	.00	1.25		.02
St. Clair & Sanilac Counties	15.08	1.60	1.40		
PLUMBERS & PIPEFITTERS:					
Genesee, Lapeer, & Shiawassee Counties	16.71	1.40	1.05		.08
St. Clair & Sanilac Counties:					
Plumbers	14.15	1.65	1.80	1.69	.11
Steamfitters	15.00	1.65	1.70	2.00	.11

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS (Cont'd):					
Bay, Huron (NW ½), Iosco, & Tuscola (N. ½) Counties	$16.12	1.30	1.00		.10
Saginaw & Tuscola (S. ½) Cos.	15.37	1.09	1.75		.10
Huron (Remainder of Co.) Co.:					
Plumbers	14.15	1.65	1.80	1.69	.11
Sreamfitters	15.00	1.65	1.70	2.00	.11
ROOFERS:					
Bay, Huron, Iosco, Saginaw, & Tuscola Counties	13.65	1.40	1.40		.02
Genesee, Lapeer, Shiawassee Cos.:					
Composition	14.75	.90	1.20		
Slate, Tile, & Wood fiber	15.10	.90	1.20		
St. Clair & Sanilac Counties	11.20				
SHEET METAL WORKERS:					
Bay, Huron, Iosco, Saginaw, & Tuscola Counties	15.53	1.00	1.20		.06
Genesee, Lapeer, & Shiawassee Counties	15.63	.89	1.40		.04
St. Clair & Sanilac Counties	14.85	2.58	2.686	1.653	.241
SPRINKLER FITTERS	15.65	.95	1.40		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw, & Tuscola Counties:					
Trucks under 8 cubic yards	10.30	b 42.50	41.00 b		
Trucks 8 cubic yards & over	10.40	b 42.50	41.00 b		
Semi-double bottom, low boy, Pitman ops. or related equip.	10.50	b 42.50	41.00 b		
Euclid type equipment	10.60	b 42.50	41.00 b		
Huron, St. Clair, & Sanilac Cos.:					
Pole trailers, low boys, straddle carriers, double bottoms & special load permit drivers	13.55	b 39.50	41.00 b		
Semi drivers	13.45	b 39.50	41.00 b		
All other truck drivers	13.30	b 39.50	41.00 b		
WELDERS - RATE FOR CRAFT.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day; and Vacation Pay Credit: employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

b. Per Week, Per Employee

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 clause (29 CFR, 5.5 (a) (1) (ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Counties					
CLASS A	$ 11.24	.75	.65		.04
CLASS B	11.36	.75	.65		.04
CLASS C	11.44	.75	.65		.04
CLASS D	12.01	.75	.65		.04
Genesee, Lapeer & Shiawassee Cos.,					
CLASS A	11.56	.75	.95		.04
CLASS B	11.71	.75	.95		.04
CLASS C	11.81	.75	.95		.04
CLASS D	11.91	.75	.95		.04
CLASS E	12.16	.75	.95		.04
St. Clair & Sanilac Counties:					
CLASS 1	13.40	.75	.65		.04
CLASS 2	13.52	.75	.65		.04
CLASS 3	13.65	.75	.65		.04
CLASS 4	13.57	.75	.65		.04
CLASS 5	13.75	.75	.65		.04

LABORERS:

Bay, Huron, Saginaw & Tuscola Counties

CLASS A - All Construction Laborers on Building & Heavy Construction not specified in classes. B, C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a battery; Mechanized Buggy Operator & Mortar Mixer when done by hand.

CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; vibrators

CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker

CLASS D - Drillers & Plasters; Burners

LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS B - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller) Signal Men & Top men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Men Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Mortar Mixers (Hand or Machine)

GROUP 3 - Air, Electric, Gas, Tool, Pump Operators

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers in buildings

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LC-ZONE-I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$17.38	1.70	11%		½%
Cable Splicer	18.12	1.70	11%		½%
Combination equipment Operator & Groundman	13.94	1.70	11%		½%
Combination Driver-Groundman	13.12	1.70	11%		½%
Groundman	12.09	1.70	11%		½%

LC-ZONE-II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technician	$13.72	.45	3%+4%	a+5%	.5%
Cable Splicer	14.28	.45	3%+4%	a+5%	.5%
Combination Digger Operator; Tractor Operator Groudman	10.72	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman: Distribution Line Truck Driver Operator Groundman	9.42	.45	3%+4%	a+5%	.5%
Combination Winch Truck	8.99	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	7.62	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day, provided the employee works the scheduled work day preceeding and the next work day following the day observed.

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MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.34	1.15	2.10	13%	.10
CLASS B	16.12	1.15	2.10	13%	.10
CLASS C	15.56	1.15	2.10	13%	.10
CLASS D	15.08	1.15	2.10	13%	.10
CLASS E	14.71	1.15	2.10	13%	.10
CLASS F	12.46	1.15	2.10	13%	.10
CLASS G	11.64	1.15	2.10	13%	.10

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Crane with boom and jib 120' or longer
CLASS D - Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operting compressor or welding machine
CLASS G - Fireman or Oiler

ICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$18.52	1.15	2.10	13%	.10
CLASS B	18.24	1.15	2.10	13%	.10
CLASS C	17.25	1.15	2.10	13%	.10
CLASS D	17.02	1.15	2.10	13%	.10
CLASS E	13.95	1.15	2.10	13%	.10
CLASS F	12.65	1.15	2.10	13%	.10

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.20	1.15	2.10		.10
CLASS B	15.95	1.15	2.10		.10
CLASS C	15.45	1.15	2.10		.10
CLASS D	13.85	1.15	2.10		.10
CLASS E	13.55	1.15	2.10		.10
CLASS F	12.15	1.15	2.10		.10
CLASS G	11.30	1.15	2.10		.10

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

MICH-9-PEO-U

DECISION NO. MI82-2007

POWER EQUIPMENT OPERATORS - UNDERGROUND CONSTRUCTION: IOSCO COUNTY:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.22	1.15	2.10	13%	.10
CLASS II	11.79	1.15	2.10	13%	.10
CLASS III	11.35	1.15	2.10	13%	.10
CLASS IV	11.10	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

MICH-8-PEO-U

DECISION NO. MI82-2007

POWER EQUIPMENT OPERATORS - UNDERGROUND CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
REMAINDER OF COUNTIES:					
CLASS I	$13.73	1.15	2.10	13%	.10
CLASS II	13.44	1.15	2.10	13%	.10
CLASS III	12.80	1.15	2.10	13%	.10
CLASS IV	12.29	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: MICHIGAN DECISION NUMBER: MI82-2012

COUNTIES: ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, HILLSDALE, INGHAM, IONIA, JACKSON, KALAMAZOO, LENAWEE, ST. JOSEPH, & VAN BUREN.

Supersedes Decision Number MI81-2036, dated July 6, 1981, in 46 FR 34986.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartment up to and including 4 stories) and HEAVY CONSTRUCTION PROJECTS (excluding Bridge, Airport, & Sewer Projects).

DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Berrien & Cass Counties	$16.96	.97	1.60		
Remainder of Counties	15.33	1.35	2.25		
BOILERMAKERS:					
Hillsdale & Lenawee Counties	17.90	1.275	1.50		.28
Remainder of Counties	18.315	1.375	1.75		.05
BRICKLAYERS & STONE MASONS:					
Allegan (Northern tier twps.), Barry (Northern tier twps.), & Ionia (W. ½) Counties	13.40	.75	.35		.04
Allegan (SE. 2/3), Barry (SW. ½), Kalamazoo, St. Joseph, & Van Buren (E. ½) Counties	12.41	1.15	.70		.09
Allegan (Remainder of Co.), Berrien, Cass, & Van Buren (Remainder of Co.) Counties	13.35	1.15	1.35		
Barry (Remainder of Co.), Eaton (SW. Corner), & Calhoun Cos.	14.35	.85	1.25		
Clinton, Eaton (Remainder of Co.), Ingham (Except the Twps. of Onondaga, Leslie, Bunker Hill, & Stockbridge), & Ionia (Remainder of Co.) Counties	15.35		1.10		.01
Ingham (Remainder of Co.) & Jackson Counties	15.50	1.10	1.00		
Branch & Hillsdale Counties	13.80	1.17	1.20		.01
Lenawee County	14.88	1.16	.55		.05
CARPENTERS, PILEDRIVERMEN, & SOFT FLOOR LAYERS:					
Clinton, Eaton (Except the Twps. of Bellevue, Walton, Kalamo, & Vermontville), Ingham, & Ionia (SE. Corner) Counties:					
Carpenters & Piledrivermen	14.62	.85	1.00		.05
Soft floor layers	13.07	.85	1.00	.62	.01
Jackson & Lenawee Counties	14.62	.85	1.00		.05
Berrien (Twps. of Chickaming, New Buffalo, & Three Oaks) Co.:					
Carpenters & Piledrivermen	16.00	1.20	1.50		.07
Remainder of Counties:					
Carpenters	13.79	.85	1.00		.10
Piledrivermen	14.19	.85	1.00		.10
Soft floor layers	11.69	.85	1.00		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Branch & Hillsdale Counties	$13.80	1.17	1.20		.01
Lenawee County:					
Cement masons	14.14	1.16	.55		.05
Plasterers	13.79	1.16	.55		.05
St. Joseph County:					
Cement masons	11.59	1.15	.70		.09
Plasterers	12.41	1.15	.70		.09
Ionia County:					
Cement masons	12.07	.90	1.00		.02
Plasterers	13.54	.90	1.00		.03
Allegan (W. ½), Berrien, Cass, & Van Buren (W. ½) Counties:					
Cement masons	12.38	1.15	1.35		
Plasterers	12.75	1.15	1.35		
Remainder of Counties:					
Cement masons	13.05	.90	1.00		.02
Plasterers	13.54	.90	1.00		.03
ELECTRICIANS:					
Berrien & Cass Counties	15.60	4.8%	9%		½ of 1%
Hillsdale & Lenawee Counties	17.40	.85	3% + .95		.3%
Ionia (Except SE. Corner) Co.	11.00	.85	3% + .35		.01
Clinton, Eaton (Except the Twps. of Sunfield, Vermontville, Kalamo, Bellevue, Eaton, & Brookfield), Ingham (Except the Twps. of Onondaga, Leslie, Stockbridge, & Bunker Hill), & Ionia (Remainder of Co.) Counties	15.52	.85	3% + 1.50		½ of 1%
Ingham (Remainder of Co.) & Jackson Counties	16.52	1.00	1.19		2%
Barry (E. ½), Branch, Calhoun, & Eaton (Remainder of Co.) Counties	15.19	.85	9%		¼ of 1%
Remainder of Counties	15.16	.85	9½%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Ionia County:					
Mechanics	13.99	1.345	1.085	a	.035
Helpers	9.79	1.345	1.085	a	.035
Probationary helpers	6.995				
Clinton County:					
Mechanics	15.53	1.345	1.085	a	.035
Helpers	10.87	1.345	1.085	a	.035
Probationary helpers	7.765				

DECISION NO. MI82-2012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (Cont'd):					
Eaton, Hillsdale, Ingham, & Jackson Counties:					
Mechanics	$16.60	1.345	1.085	a	.035
Helpers	11.62	1.345	1.085	a	.035
Probationary helpers	8.30				
Lenawee County:					
Mechanics	16.57	1.345	1.085	a	.035
Helpers	11.60	1.345	1.085	a	.035
Probationary helpers	8.285				
Remainder of Counties:					
Mechanics	15.13	1.345	1.085	a	.035
Helpers	10.59	1.345	1.085	a	.035
Probationary helpers	7.565				
GLAZIERS:					
Allegan (N.½), Barry (N. ½), & Ionia Counties	11.00	.75	.40		
Allegan (S. ½), Barry (S. ½), Branch, Calhoun, Kalamazoo, St. Joseph, & Van Buren Cos.	11.75		.15		
Lenawee County	14.69	.85	1.45		.02
Remainder of Counties	13.14	1.14	1.15		.02
IRONWORKERS:					
Lenawee County	16.58	1.06	1.82		.09
Berrien & Cass Counties	14.40	1.00	2.68		.03
Clinton, Ingham, & Jackson Cos.:					
Ornamental & Structural	14.98	11%	18%	18%	.09
Reinforcing	13.08	1.98	19%	19%	.64%
Remainder of Counties	14.97	1.06	1.40		.20
LATHERS:					
Lenawee (E. ½) County	16.32	1.63	2.21		
Clinton, Eaton (Except SW. Corner), Ingham, Ionia (SE. Corner), Jackson, Lenawee (Remainder of Co.) Counties	13.91	1.06	1.00		.01
Remainder of Counties (Except SW Corner of Berrien Co.)	13.03	1.06	1.00		.01
MARBLE, TILE, & TERRAZZO WORKERS:					
Branch & Hillsdale Counties	13.80	1.17	1.20		.01
Ingham (Southern tier Twps.), & Jackson Counties:					
Marble setters	15.50	1.10	1.00		
Tile & Terrazzo workers	13.94	1.10	1.00		
Clinton, Eaton (Except SW. Corner), Ingham (Remainder of County), & Ionia (E. ½) Cos.	14.03		1.10		

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MARBLE, TILE, & TERRAZZO WORKERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Barry (SE. ¼), Calhoun, & Eaton (Remainder of Co.) Cos.:					
Marble setters	$14.35	.85	1.25		
Tile & Terrazzo workers	10.52	.85	.35		
Allegan (Northern Tier Twps.), Barry (Northern Tier Twps.), & Ionia (W. ½) Counties	12.51	.75	.35		
Allegan (E. ½), Barry (Remainder of Co.), Kalamazoo, St. Joseph, & Van Buren (E. ½) Counties	10.75	.90			.05
PAINTERS:					
Allegan (Northern Portion) & Ionia (W. ½) Counties:					
Brush & Roller	11.25	.65	.40		.02
Swing stage & window jacks	11.75	.65	.40		.02
Spray, pressure roller, steam cleaning, sand & Water blast	12.00	.65	.40		.02
Paper hangers, wall coverers, drywall finishers, & Painters on railroad bridges	11.50	.65	.40		.02
Allegan (SE. ½), Berrien, Cass (W. ½), & Van Buren (W. ½) Counties:					
Brush & Roller	13.30				
Spray, sandblast, drywall finishers, tapers, swing stage, boatswain chair, steeple jack, & structural steel	14.896				
Allegan (Remainder of Co.), Cass (Remainder of Co.), Kalamazoo, & St. Joseph Cos.:					
Brush, roller, & drywall taping	13.60	.70	.40		
Wallpaper - vinyl	13.80	.70	.40		
Structural steel	14.25	.70	.40		
Steeple jack	14.45	.70	.40		
Spray, sandblast, & swing stage	14.80	.70	.40		

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PAINTERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Barry, Branch, Calhoun, Hillsdale (W. 1/3) Counties:					
Brush & Roller	$12.90	.70	.25		
Swing stage, spray, sandblasting, drywall tapers, & wall covering	13.50	.70	.25		
Hillsdale (Remainder of Co.), Jackson, & Lenawee Counties:					
Brush & Roller	13.25	1.25	1.50	1.25	
Spray, sandblast, swing stage, & open steel	13.75	1.25	1.50	1.25	
Remainder of Counties:					
Brush, roller, & drywall (hand)	14.80	.65	.40		.0025
Structural steel & towers	15.20	.65	.40		.0025
Spray, sandblast, & drywall (machine)	15.55	.65	.40		.0025
PLUMBERS & PIPEFITTERS:					
Allegan (Northern tier Twps.), Barry (Northern tier Twps.), & Ionia (Except NE. Corner) Counties	14.89	.85	1.50		.02
Allegan (Remainder of Co.), Barry (SW. ½), Kalamazoo, St. Joseph, & Van Buren Counties	16.04	.80	1.85		
Barry (Remainder of Co.), Branch, Eaton(Except Northern tier Twps.), & Calhoun Cos.	16.48	1.56	1.70		.08
Berrien County	15.69	1.22	1.00		.10
Cass County	15.28	.75	1.20		.10
Clinton, Eaton (Remainder of Co.), & Ingham Counties	15.43	1.30	2.00		.10
Hillsdale, Jackson, & Lenawee (Except NE. Corner) Counties	15.55	1.65	1.72		.05
Lenawee (NE Corner) County	14.93	1.30	.90	2.00	.05
ROOFERS:					
Allegan, Barry, & Ionia Counties:					
Slate, Tile, & Asbestos	10.85	1.10	.40		
Built-up	10.60	1.10	.40		
Berrien County:					
Composition	13.60	.80	.75		.03
Slate & Tile	14.10	.80	.75		.03
Clinton, Eaton, & Ingham Cos.	11.33	1.00	.70	.70	
Hillsdale & Jackson Counties	14.90	1.30	1.00	1.50	.10
Lenawee	15.95	1.06	2.00		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (Cont'd):					
Remainder of Counties:					
Roofers	$13.55				
Slate & Tile	13.80				
Pitch work	14.05				
SHEET METAL WORKERS:					
Berrien, Cass, St. Joseph, & Van Buren (Western End) Cos.	15.76	.95	1.04		.07
Lenawee County	16.145	1.06	2.18		.075
Remainder of Counties	15.47	1.25	1.89		.09
SPRINKLER FITTERS	15.65	.95	1.40		.08
TRUCK DRIVERS:					
Allegan, Barry, Berrien, Cass, Kalamazoo, St. Joseph, & Van Buren:					
Straight or dump trucks	10.02	b 39.50	b 46.00		
Semi and double bottom trucks	10.42	b 39.50	b 46.00		
Ionia (W. ½) County:					
Trucks 8 cu. yds. & Under	10.47	b 39.50	b 30.00		
Trucks over 8 cu. yds.	10.57	b 39.50	b 30.00		
Semi trucks, mechanics	10.67	b 39.50	b 30.00		
Clinton, Eaton (N. ½), Ingham, Ionia (Remainder of Co.) Cos.:					
Dump trucks 8 cu. yds. & Over, & Pole trailers	10.26	b 39.50	b 41.00		
Lowboy & Double bottom trucks	10.36	b 39.50	b 41.00		
All Other Trucks	10.16	b 39.50	b 41.00		

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day; and Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

b. Per Week, Per Employee

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 clause (29 CFR, 5.5 (a) (1) (ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, KALAMAZOO, ST. JOSEPH, & VAN BUREN COUNTIES:					
GROUP 1	$10.50	.75	.65		.04
GROUP 2	10.65	.75	.65		.04
GROUP 3	10.75	.75	.65		.04
GROUP 4	11.00	.75	.65		
Clinton, Eaton and Ingham Counties					
GROUP 1	11.35	.75	.65		.04
GROUP 2	11.43	.75	.65		.04
GROUP 3	11.49	.75	.65		.04
GROUP 4	11.64	.75	.65		.04
GROUP 5	11.59	.75	.65		.04
GRPUP 6	11.71	.75	.65		.04
GROUP 7	11.965	.75	.65		
HILLSDALE, JACKSON, LENAWEE COS.:					
GROUP 1	11.33	.75	.65		.04
GROUP 2	11.95	.75	.65		.04
IONIA COUNTY:					
GROUP 1	10.01	.75	.65		.04
GROUP 2	10.16	.75	.65		.04
GROUP 3	10.26	.75	.65		.04
GROUP 4	10.51	.75	.65		.04

LABORERS:

ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, KALAMAZOO, ST. JOSEPH, VAN BUREN & IONIA COUNTIES:

Group 1 - All construction laborers on buildings and Heavy Construction Pumps and Well Wheels

Group 2 - Plasterer Tenders, Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds

Group 3 - Jackhammer Oprs., Crocklayers & Caisson Workers in Building

Group 4 - Top men on Chimney or Towers over 30' in height

Clinton, Eaton and Igham Counties

Group 1 - Building Laborers

Group 2 - Mortar Mixers, hand or machine

Group 3 - Plasterer Tenders; Portable concrete mixer Opr., (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; concrete saw; Signal men and top men

Group 4 - Tunnel men; concrete shovelers; Car pushers, etc.

Group 5 - Windlass Operator (on caisson work)

Group 6 - Crock Layers (or pipe layers); Caisson workers; Tunnel muckers

Group 7 - Tunnel Miners

HILLSDALE, JACKSON, & LENAWEE COUNTIES:

Group 1- General Laborer

Group 2- Jackhammer and Acetylene Torch

LC ZONE I

LINE CONSTRUCTION WILLIAMSTON, LOCKE, LEROY, WHEATFIELD & WHITE OAK TOWNSHIPS IN INGHAM COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$17.38	1.70	11%		½%
Cable Splicer	18.12	1.70	11%		½%
Combination Equipment Oprs. & Groundman	13.94	1.70	11%		½%
Combination Driver & Groundmen	13.12	1.70	11%		½%
Groundman	12.09		11%		½%

LC ZONE II

LINE CONSTRUCTION: ZONE II REMAINING COS: & THE REMAINDER OF INGHAM COS.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; - Technician	13.72	.45	3%+4%	a+5%	.5%
Cable Splicer	14.28	.45	3%+4%	a+5%	.5%
Combination Digger Oprs., Tractor Oprs., Groundman	10.72	.45	3%+4%	a+5%	.5%
Light Equipment Opr., Groundman; Distribution Line Truck Driver Operator - Groundman	9.42	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman:	8.99	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	7.62	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

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MICH-1-PEO-1-2-R

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION - LENAWEE COUNTY:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.34	1.15	2.10	13%	.10
CLASS B	16.12	1.15	2.10	13%	.10
CLASS C	15.56	1.15	2.10	13%	.10
CLASS D	15.08	1.15	2.10	13%	.10
CLASS E	14.71	1.15	2.10	13%	.10
CLASS F	12.46	1.15	2.10	13%	.10
CLASS G	11.64	1.15	2.10	13%	.10

CLASS A - Crane with boom & jib or leads 220' or longer

CLASS B - Crane with boom & jib or leads 140' or longer

CLASS C - Crane with boom & jib or leads 120' or longer

CLASS D - Regular Crane Operator

CLASS E - Regular Engineer

CLASS F - Engineer when operating Compressor or Welding Machine

CLASS G - Fireman or Oiler

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MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.20	1.15	2.10		.10
CLASS B	15.95	1.15	2.10		.10
CLASS C	15.45	1.15	2.10		.10
CLASS D	13.85	1.15	2.10		.10
CLASS E	13.55	1.15	2.10		.10
CLASS F	12.15	1.15	2.10		.10
CLASS G	11.30	1.15	2.10		.10

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D- Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater operator

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MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION CLINTON, INGHAM, JACKSON, & LENAWEE COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$18.52	1.15	2.10	13%	.10
CLASS B	18.24	1.15	2.10	13%	.10
CLASS C	17.25	1.15	2.10	13%	.10
CLASS D	17.02	1.15	2.10	13%	.10
CLASS E	13.95	1.15	2.10	13%	.10
CLASS F	12.65	1.15	2.10	13%	.10

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140" or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.55	1.15	2.10		.10
CLASS B	16.30	1.15	2.10		.10
CLASS C	15.80	1.15	2.10		.10
CLASS D	14.20	1.15	2.10		.10
CLASS E	12.85	1.15	2.10		.10
CLASS F	11.50	1.15	2.10		.10

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane, dozer, loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6" or or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - oiler & Fireman

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MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION BRANCH, CALHOUN, CLINTON, EATON, HILLSDALE, INGHAM, JACKSON, & LENAWEE COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$13.73	1.15	2.10	13%	.10
CLASS II	13.44	1.15	2.10	13%	.10
CLASS III	12.80	1.15	2.10	13%	.10
CLASS IV	12.29	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe, calmshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor(pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete),roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.22	1.15	2.10	13%	.10
CLASS II	11.79	1.15	2.10	13%	.10
CLASS III	11.35	1.15	2.10	13%	.10
CLASS IV	11.10	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: MICHIGAN
DECISION NUMBER: MI82-2005
COUNTY: INGHAM
DATE: DATE OF PUBLICATIONS
Supersedes Decision Number MI81-2058, dated August 28, 1981, in 46 FR 43632.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$10.58				
CARPENTERS	11.81	.75	.90		.05
CEMENT MASONS	11.33				
DRYWALL FINISHERS/TAPERS	12.75	.55	.40		.01
DRYWALL HANGERS	10.81	.60	.80		.05
ELECTRICIANS	10.28				
LABORERS:					
General laborers	7.88				
Landscape laborers	4.20				
PAINTERS	11.44	.65	.40		.0025
PLUMBERS & PIPEFITTERS	11.37				
ROOFERS	8.40				
SOFT FLOOR LAYERS	9.80				
TILE SETTERS	12.05				
TRUCK DRIVERS	10.16	39.50 a	39.50 a		
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	11.04				
Bulldozer	11.58				
Crane	11.48				
Front end loader	12.92			1.51	
Paver	11.38	1.05	1.75		.10
Roller	11.38	1.05	1.75		.10
Scraper	10.00				

FOOTNOTE:

a. Per week, per employee.

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 clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI
DECISION NUMBER: MS82-1008
COUNTIES: ** See Below
DATE: Date of Publication
Supersedes Decision No.: MS81-1225 dated May 8, 1981 in 46 FR 25914.
DESCRIPTION OF WORK: Highway Construction Projects (does not include Building Structures in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction).

** Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Ittawamba, LaFayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, and Webster Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.50				
CARPENTERS	6.60				
CEMENT MASONS/FINISHERS	7.00				
ELECTRICIANS	5.50				
IRONWORKERS, Reinforcing & Structural	5.45				
LABORERS:					
Unskilled	3.54				
Mason Tender	4.75				
Asphalt Raker	4.00				
Grade Checker	5.32				
Air Tool Operator	3.54				
Concrete Saw	4.50				
PAINTERS, Structural Steel	4.75				
PIPELAYERS	4.50				
TRUCK DRIVERS	4.00				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader Operator	4.00				
Air Compressor	3.54				
Asphalt Distributor-Spreader	4.15				
Asphalt Plant	4.60				
Backhoe or Shovel	6.23				
Bulldozer	6.50				
Concrete Batch Plant	5.50				
Concrete Finishing Machine	5.79				
Curing Machine	3.54				
Concrete Paving Machine	5.50				
Concrete Spreader	5.50				
Crane/Dragline	6.63				
Guardrail Post Driver	3.54				
Earth Auger	4.00				
Fireman	5.00				
Joint Filler	3.54				
Joint Setter	3.54				
Loader (all types)	6.50				
Mechanic	6.50				
Mixer	4.65				
Motor Patrol	6.02				
Mulcher	3.54				

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POWER EQUIPMENT OPERATORS, Cont'd:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Oiler-Greaser	$5.63				
Piledriver	6.25				
Roller (self-propelled)	4.00				
Scales (all types)	3.54				
Scraper	6.00				
Striping Machine	5.08				
Tractor (track type)	4.74				
Tractor (wheel type)	3.84				
Trenching Machine	5.00				
Concrete Breaker & Hydro-hammer	3.54				
Subgrade Machine	3.54				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: ** See Below
DECISION NUMBER: MS82-1009 DATE: Date of Publication
Supersedes Decision No.: MS81-1226 dated May 8, 1981 in 46 FR 25919.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects, and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

** Bolivar, Carroll, Coahoma, DeSoto, Grenada, LeFlore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, and Yalobusha Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	6.00				
CEMENT MASONS	5.00				
CEMENT FINISHERS	6.50				
ELECTRICIANS	6.00				
IRONWORKERS, Reinforcing & Structural	4.75				
LABORERS:					
Air Tool Operators	3.50				
Asphalt Rakers	3.75				
Concrete Saw Operators	4.25				
Grade Checkers	3.75				
Mason Tenders	4.00				
Pipelayers	3.50				
Unskilled	3.35				
PAINTERS, Structural Steel	4.50				
TRUCK DRIVERS	3.65				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader	4.13				
Air Compressor	3.35				
Asphalt Distributor & Spreader	4.13				
Asphalt Plant	3.35				
Backhoe	5.00				
Bulldozer/Shovel	6.00				
Concrete Batch Plant	6.00				
Concrete Breaker	3.35				
Concrete Finishing Machine	5.55				
Concrete Paving Machine	6.50				
Concrete Spreader Machine	3.35				
Crane/Dragline	7.00				
Crusher Feeder	3.35				
Curing Machine	3.35				
Earth Auger	3.35				
Guardrail Post Driver	3.50				
Fireman	3.35				
Hydro-Hammer	3.35				
Joint Filler	3.35				
Loader (all types)	4.50				
Mechanic	5.15				
Mixer (all types)	4.00				

POWER EQUIPMENT OPERATORS, (cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Motor Patrol	$6.25				
Mulcher	3.50				
Oiler-Greaser	5.50				
Piledriver	5.50				
Roller (self-propelled)	3.35				
Scales (all types)	4.00				
Scraper	5.00				
Spreader	3.35				
Striping Machine	5.00				
Subgrade Machine	4.00				
Tractor (track type)	5.02				
Tractor (wheel type)	3.35				
Trenching Machine	4.00				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: **See Below
DECISION NUMBER: MS82-1010 DATE: Date of Publication
Supersedes Decision No.: MS81-1227 dated May 8, 1981 in 46 FR 25918.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

** Clairborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren, and Yazoo Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.75				
CARPENTERS	6.07				
CEMENT MASONS/CEMENT FINISHERS	5.90				
ELECTRICIANS	10.65				
IRONWORKERS, Reinforcing	5.60				
LABORERS:					
Asphalt Rakers	4.10				
Grade Checkers	4.75				
Mason Tenders	4.07				
Pipelayers	4.50				
Unskilled	3.81				
PAINTERS, Structural Steel	5.00				
TRUCK DRIVERS	4.00				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	5.00				
Aggregate Spreader	4.25				
Air Compressor	3.35				
Asphalt Distributor-Spreader	5.00				
Asphalt Plant	4.00				
Backhoe-Shovel	5.70				
Bulldozer	5.50				
Concrete Batch Plant	4.25				
Concrete Breaker	3.35				
Concrete Finishing Machine	5.54				
Concrete Paving Machine	3.80				
Concrete Spreader	4.25				
Crane/Dragline	6.30				
Crusher Feeder	4.25				
Curing Machine	3.35				
Earth Auger	5.00				
Fireman	3.60				
Guardrail Post Driver	3.50				
Hydro-hammer	3.35				
Joint Filler	3.35				
Joint Setter	3.95				
Loader (all types)	5.10				
Mechanic	7.00				

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POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mixer	$4.25				
Motor Patrol	6.00				
Mulcher	3.50				
Oiler-Greaser	5.00				
Piledriver	5.00				
Roller (self-propelled)	4.47				
Scales (all types)	4.00				
Scraper	5.75				
Spreader	3.50				
Striping Machine	4.00				
Tractor (track type)	4.00				
Tractor (wheel type)	3.88				
Trenching Machine	3.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: **See Below
DECISION NUMBER: MS82-1011 DATE: Date of Publication
Supersedes Decision No.: Ms81-1228 dated May 8, 1981 in 46 FR 25917.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

**Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.50				
CARPENTERS	6.50				
CEMENT MASONS/CEMENT FINISHERS	5.40				
ELECTRICIANS	7.00				
IRONWORKERS, Reinforcing	5.50				
LABORERS:					
Air Tool Operators	4.00				
Asphalt Rakers	4.10				
Concrete Saw Operators	4.00				
Grade Checkers	4.10				
Mason Tenders	3.88				
Pipelayers	3.35				
Unskilled	3.50				
PAINTERS, Structural Steel	6.00				
TRUCK DRIVERS	4.05				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	3.75				
Aggregate Spreader	4.75				
Air Compressor	3.65				
Asphalt Distributor-Spreader	4.75				
Asphalt Plant	3.88				
Backhoe	6.00				
Bulldozer/Shovel	6.00				
Concrete Batch Plant	3.35				
Concrete Finishing Machine	4.50				
Concrete Paving Machine	3.50				
Concrete Spreader Machine	3.35				
Crane/Dragline	6.00				
Crusher Feeder	3.50				
Curing Machine	3.35				
Earth Auger	3.35				
Fireman	3.35				
Guardrail Post Driver	3.35				
Joint Setter	3.35				
Loader (all types)	5.22				
Mechanic	6.00				
Mixer (all types)	4.00				
Motor Patrol	6.00				
Mulcher	3.35				

POWER EQUIPMENT OPERATORS: (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Oiler-Greaser	$4.50				
Piledriver	4.25				
Roller (self-propelled)	4.50				
Scales (all types)	3.50				
Scraper	4.75				
Spreader	4.19				
Striping Machine	4.25				
Tractor (track type)	3.35				
Tractor (wheel type)	3.50				
Trenching Machine	4.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: ** See Below
DECISION NUMBER: MS82-1012 DATE: Date of Publication
Supersedes Decision No.: MS81-1229 dated May 8, 1981 in 46 FR 25916.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

**Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson-Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H.& W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.00				
CARPENTERS	6.43				
CEMENT MASONS/CEMENT FINISHERS	6.00				
ELECTRICIANS	9.70				
IRONWORKERS:					
Reinforcing	6.50				
Structural	6.00				
LABORERS:					
Asphalt Rakers	4.65				
Concrete Saw Operator	4.25				
Grade Checker	4.75				
Mason Tenders	4.79				
Unskilled	4.00				
PAINTERS, Structural Steel	4.00				
PILEDRIVERS	5.50				
TRUCK DRIVERS	4.25				
WELDERS- Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	4.00				
Aggregate Spreader	4.40				
Air Compressor	4.88				
Asphalt Distributor	4.64				
Asphalt Plant	4.88				
Backhoe-Shovel	5.25				
Bulldozer	6.33				
Concrete Batch Plant	4.50				
Concrete Paving Machine	4.00				
Crane/Dragline	6.50				
Loader (all types)	5.03				
Mechanics	6.50				
Motor Patrol	6.54				
Oiler/Greaser	5.25				
Piledriver	5.75				
Roller (self-propelled)	4.52				
Scraper	5.00				
Striping Machine	4.00				
Tractor (wheel type)	5.00				
Trenching Machine	4.50				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: George, Hancock, Harrison, Jackson, Pearl River, and Stone

DECISION NUMBER: MS82-1013

DATE: Date of Publication

Supersedes Decision No.: MS81-1230 dated May 8, 1981 in 46 FR 25915.

DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	6.50				
CEMENT MASONS/CEMENT FINISHERS	5.50				
ELECTRICIANS	6.00				
IRONWORKERS, Reinforcing	8.50				
LABORERS:					
Asphalt Rakers	4.00				
Air Tool Operators	4.18				
Concrete Saw Operators	5.00				
Grade Checkers	4.00				
Mason Tenders	4.50				
Pipelayers	3.35				
Form Setter	5.75				
Unskilled	3.92				
PAINTERS, Structural Steel	5.43				
PILEDRIVERMEN	5.52				
TRUCK DRIVERS	4.00				
TUGBOAT OPERATORS	5.50				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	4.50				
Aggregate Spreader	3.50				
Air Compressor	3.35				
Asphalt Distributor-Spreader	4.25				
Asphalt Plant	5.50				
Backhoe/Shovel	5.28				
Bulldozer	6.00				
Concrete Batch Plant	5.30				
Concrete Finishing Machine	6.50				
Curing Machine	3.35				
Concrete Paving Machine	3.55				
Concrete Spreader Machine	3.35				
Crane/Dragline	6.00				
Guardrail Post Driver	3.50				
Earth Auger	4.00				
Fireman	3.35				
Joint Filler	3.35				
Loader (all types)	5.13				
Mechanic	6.57				
Mixer (all types)	5.00				
Motor Patrol	6.25				

POWER EQUIPMENT OPERATORS: (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mulcher	$4.00				
Oiler-Greaser	4.50				
Piledriver	6.25				
Roller (self-propelled)	4.25				
Scales (all types)	3.40				
Scraper	5.25				
Striping Machine	4.00				
Tractor (track type)	5.00				
Tractor (wheel type)	4.20				
Trenching Machine	4.00				
Sub-Grade Machine	3.60				
Crusher Feeder	3.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

STATE: New Hampshire COUNTIES: Rockingham & Stafford
DECISION NUMBER NH82-3009 DATE: Date of Publication
Supersedes Decision No. NH81-3010, dated January 23, 1981 in 46 FR 7733
DESCRIPTION OF WORK: Building, Heavy and Marine Construction Projects

ROCKINGHAM COUNTY BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.91	1.50	1.20		.05
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS, CEMENT MASONS, Marble Masons, Plasterers, Stonemasons, Tile Setters & Terrazzo Workers	11.41	1.01	.89		.02
CARPENTERS:					
Salem:					
Carpenters & Soft Floor Layers	12.10	1.00	1.00		.05
Remainder of County:					
Carpenters & Soft Floor Layers	11.36	.65	.85		.05
Piledrivers, Wharf & Dock Buildings & Millwrights	12.21	.65	.85		.05
ELECTRICIANS:					
Twps. of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook, Strathan, S. New Market & New Fields	14.05	.75	3%+.25		.05
Kingston, Kensington, N. Kingston, Hampstead, N. Plaistow, Westville, Atkinson, N. Salem & Salem	12.37	1.00	3%+.60		.02
Remainder of County	13.85	.80	3%		.03
ELEVATOR CONSTRUCTION:					
Constructors	13.88	1.195	.95	a+b	.035
Helpers	9.72	1.195	.95	a+b	.035
IRONWORKERS:					
Structural, Ornamental and Reinforcing	13.45	1.15	1.55		.02
LABORERS:					
Laborers	9.07	.80	1.10	d	.10
Plasterers Tenders	9.25	.80	1.10	d	.10
Drillers, Pavement Breakers, Pneumatic Tool Ops., Chipping Gun Ops., Blasters & Powdermen	9.70	.80	1.10	d	.10
All other Pneumatic Tool Ops., on Boiler & Stack Work	10.21	.80	1.10	d	.10
Pipelayers, Fence & guard Rail Erectors	9.38	.80	1.10	d	.10
LABORERS, HEAVY:					
Laborers & Pipelayers	8.15	.85	1.20	d	.10
Pneumatic Tool Operator, Drillers Concrete Vibrators & Powderman	8.65	.60	.80	d	.10
Blasters & Powdermen	8.90	.60	.80	d	.10
LABORERS:					
Rockingham County - Heavy Laborers: Tunnel Free air Operation:					
Change House Attendant	10.19	.80	1.10	d	.10
Laborers Topside	10.38	.80	1.10	d	.10
Miners Helpers, Tunnel Laborers, Shaft Laborers; All other Men	10.49	.80	1.10	d	.10
Miners, Motormen, Mucking Machine Operators, Nozzlemen, Grout Men, Cable Tenders, Shaft and Tunnel Steel and Rod Men, Concrete Workers, Form Erectors, Form Movers and Strippers, Cage Tenders, and Bellmen	10.88	.75	1.10	d	.10
LINE CONSTRUCTION:					
Linemen	15.00	.70	3%+.75	c	3/8%
Equipment Operator	12.75	.70	3%+.75	c	3/8%
Groundman	9.75	.70	3%+.75	c	3/8%
Driver Groundman	12.00	.70	3%+.75	c	3/8%
PAINTERS:					
Commercial and Industrial	10.30		.25		
Sandblasting and Spray	11.60		.25		
Structural Steel	11.01		.25		
Salem:					
New Construction:					
Brush and Taper	13.71	.82	1.90		.04
Sandblasting and Spray	14.71	.82	1.90		.04
Repaint Rate:					
Brush and Tapers	12.29	.82	1.90		.04
Sanblasting and Spray	13.29	.82	1.90		.04
Steel, New and Repaint Rates	16.12	.82	1.90		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS AND STEAMFITTERS:					
Plaistow, Atkinson, Danville, Hampstead, and Kingston	13.40	1.65	.87		.05
Salem and Windham	14.05	1.12	1.50		.10
Remainder of County	14.00	.88	.75		.02
ROOFERS	7.80				
SHEET METAL WORKERS	10.92	.85	.85		.02
SPRINKLER FITTERS	13.83	.95	1.40		.08
STRAFFORD COUNTY BUILDING AND HEAVY CONSTRUCTION					
ASBESTOS WORKERS	15.91	1.50	1.20		.05
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS, CEMENT MASONS, Marble Setters, Plasterers, Stone Masons, Terrazzo Workers and Tile Setters	11.41	1.01	.89		.02
CARPENTERS & SOFT FLOOR LAYERS	11.36	.65	.85		.05
Pile Drivers, Dock Builders & Millwrights	12.21	.65	.85		.05
ELECTRICIANS	14.05	.75	3%+.25		.05
ELEVATOR CONSTRUCTORS:					
Constructors	13.88	1.195	.95	a+b	.035
Helpers	9.72	1.195	.95	a+b	.035
IRONWORKERS					
Structural, Ornamental & Reinforcing	13.45	1.15	1.55		.02
LABORERS:					
Laborers	9.07	.80	1.10	d	.10
Plasterers Tenders	9.25	.80	1.10	d	.10
Boilers, Stack Work, Pneumatic Tool Op., Drillers, Pavement Breakers, Electric Chipping Op., Blasterers, Powdermen & Creosote Work	9.70	.80	1.10	d	.10
Pipelayers, fence & Guardrail Erectors	9.38	.80	1.10	d	.10
Pneumatic Tool on Boiler and Stack Work	10.21	.80	1.10	d	.10

DECISION NO. NH81-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	15.00	.70	3%+.75	c	3/8%
Equipment Operator	12.75	.70	3%+.75	c	3/8%
Groundman	9.75	.70	3%+.75	c	3/8%
Driver Groundman	12.00	.70	3%+.75	c	3/8%
PAINTERS:					
Commerical and Industrial	10.30		.25		
Sandblasting, Spray and Tender	11.60		.25		
Structural Steel	11.01		.25		
PLUMBERS AND STEAMFITTERS	14.00	.88	.75		.02
ROOFERS	7.80				
SHEET METAL WORKERS	10.92	.85	.85		.02
SPRINKLER FITTERS	13.83	.95	1.40		.08

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C- Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.

b. Holidays: A through F

c. Holidays: B through F provided employee has been employed 5 working days prior to the holiday and provided employee works the scheudled work days immediately preceding and following the holidays.

d. Holiday: B, C, & E provided employee works the scheduled work days before and after each holiday.

DECISION NO. NH82-3009
BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS

NH-1-PEO

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	14.28	1.18	1.15	a	.03
CLASS 2	15.62	1.18	1.15	a	.03
CLASS 3	14.16	1.18	1.15	a	.03
CLASS 4	13.19	1.18	1.15	a	.03
CLASS 5	12.20	1.18	1.15	a	.03
CLASS 6	11.50	1.18	1.15	a	.03
CLASS 7	10.95	1.18	1.15	a	.03

Booms lengths including jib over 150' add $.61; over 185' add $.99; over 210' add $1.38; over 250' add $2.10; over 295' add $2.92

CLASS 1 - Shovels, Cranes, Truck Cranes, Cherry Pickers; Dragline, Trench Hoe, Backhoe, 3 Drum Machine, Derricks, Pile, Elevator Tower Hoist, Gradall, Shovel Dozer (except when pushing), Front End Loader (except when pushing), Fork Lift Auger, Boring Machine, Rotary Drill Post Hole Hammer, Post Hole Digger, Pumpcrete Machine
CLASS 2- Master Mechanics
CLASS 3 - Sonic or Vibratory Hammer, Grader, Scraper more than 21 yds. struck, Tandem Scraper, Concrete Pump, Bulldozer, Scraper 21 yds. struck or less, Portable Steam Boiler, Portable Steam Generator, Roller, Spreader, Tamper, Asphalt Paver, Mechanics, Maintenance
CLASS 4 - Assistant Engineers (fireman)
CLASS 5 - Pumps (1-3 grouped), Compressor, Welding Machines (1-3 grouped), Generator, Concrete Vibrator, Lighting Plant, Heater (Power driven 1-5), Wellpoint (operating & installing), Syphons-Pulsometers, Conc. Mixers, Valves controlling Permanent Plant Air or Steam Conveyor, Jackson Type Tamper Cranes & Gradalls
CLASS 6 - Oilers on Truck Cranes & Gradalls
CLASS 7 - Oiler (other than truck cranes & gradalls)

FOOTNOTE: a. 10 paid holidays; New Year's Day; Memorial Day; Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day

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HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.07	1.18	1.15	a	.03
CLASS 2	14.08	1.18	1.15	a	.03
CLASS 3	12.93	1.18	1.15	a	.03
CLASS 4	11.46	1.18	1.15	a	.03
CLASS 5	12.30	1.18	1.15	a	.03
CLASS 6	10.47	1.18	1.15	a	.03
CLASS 7	10.58	1.18	1.15	a	.03

Boom length including jib: over 150' - additional $.28 per hour over 185' - additional $.55 per hour; over 220' - additional $.83 per over 275' - additional $1.10 per hour

CLASS 1 - Power Shovels, Cranes, Truck Cranes, Derrick, Pile Drivers, Trenching Machines, Mechanical Hoist, Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines; Elevating Graders, Shovels Dozers, (when used for digging or loading), Front End Loaders (when used for digging or loading), Mucking Machines (when used as in shafts and tunnels), Shaft Hoists, Steam Engineers, Backhoe, Gradalls and Cableways
CLASS 2 - Master Mechanics
CLASS 3- Grader, Scrapers, more than 21 yds., Struck and Tandem Scrapers, Bulldozers, Scrapers 21 yds., Struck or less, Grout Pumps, Portable Steam Boilers, Roller, Spreaders, Asphalt Pavers, Locomotive and Tampers Self-Propelled or Tractor-Drawn, Mechanics, Maintenance, Sonic or Vibratory Hammers
CLASS 4 - Pumps (s) (1-3 grouped), Compressors Welding Machine (2) (1-3 grouped) Generator, Lighting Plants, Heaters (Power driven (105), Syphons, Pulsometers, Concrete Mixers, Valves Controlling permanent Plant Air or Steam, Conveyors, Wellpoint System (Operating and installing)
CLASS 5 - Assistant Engineers (Firemen)
CLASS 6 - Oilers (other than truck Cranes and Gradalls)
CLASS 7 - Oilers on Truck Cranes and Gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A Holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; Fast Day

DECISION NO. NH82-3009

POWER EQUIPMENT OPERATORS MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.76	1.18	1.15	a	.03
CLASS 2	13.71	1.18	1.15	a	.03
CLASS 3	13.64	1.18	1.15	a	.03
CLASS 4	13.64	1.18	1.15	a	.03
CLASS 5	12.55	1.18	1.15	a	.03
CLASS 6	11.52	1.18	1.15	a	.03
CLASS 7	10.21	1.18	1.15	a	.03
CLASS 8	11.40	1.18	1.15	a	.03
CLASS 9	10.83	1.18	1.15	a	.03

Booms over 150' inlcuding jib-additional $.25 per hour
Booms over 185' including jib-additional $.50 per hour
Booms 220' including jib additional $.75 per hour. Booms over 275' including jib-additional $1.00 per hour

CLASS 1 - Power Shovel, Crane, Truck Crane, Derrick, Cherry Picker, Pile Driver, two or more Drum Machine, Lighter, Derrick Boat, Trenching Machine, Mechanical Hoist, Pavement Breaker Cement Concrete Paver, Dragline, Hoisting Engine, Pumpcrete Machine, Elevating Grader, Shovel Dozer (except when pushing) Front End Loader (except when Pushing), Backhoe, Gradall, Cableway, Boring Machine, Rotary Drill, Post Hole Hammer, Post Hole Digger for Lift
CLASS 2 - Swinger Engine
CLASS 3 - Sonic Vibratory Hammer, Grader, Scraper (over 21 yds. Struck), Tandem Scraper Concrete Pump, Bulldozer, Scraper (21 yds. Struck or less)
CLASS 4 - Portable Steam Boiler, Portable Steam Generator, Roller, Tractor Mechanic (maintenance), Concrete Mixer with Side Loader
CLASS 5 - Assistant Engineer (fireman)
CLASS 6 - Pump, Compressor, welding Machine, Heater (power Driven), Valve Controlling Permanent Plant (air or steam), Wellpoint System, Auger (power by independnet engine and attached to pile drivers), Hydraulic Saw, Generator, Lighting Plant, Syphon, Pulsometer, Concrete Mixer
CLASS 7 Oiler (other than truck cranes and gradall)
CLASS 8 - Oiler on Scow
CLASS 9 - Oiler on Truck Crane and Gradall

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; Christmas Day

FOOTNOTE: A. Holidays: A through F; Washington's Birthday, Patriot's Day, Columbus Day, & Veteran's Day; Provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the Holidays.

DECISION NO. NH82-3009

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	6.41	.80	.50	a	
CLASS II	6.64	.80	.50	a	
CLASS III	6.87	.80	.50	a	

CLASS 1 - Two Axle Equipment
CLASS 2 - Three Axle Equipment including Low Beds
CLASS 3 - Special Earth Hauling Equipment other than Conventional type on the Road Truck and Semi-trailers Trailer Dumps

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F, plus Washington's Birthday and Columbus Day; (provided employee works two days in the calender week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

SUPERSEDEAS DECISION

STATE: NEW JERSEY LOCATION: BERGEN, ESSEX HUDSON & PASSAIC COUNTIES

DECISION NO.: NJ82-3006 DATE: DATE OF PUBLICATION

Supersedes Decision No. NJ80-3024 dated May 2, 1980 in 45 FR 29515

DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & REFRIGERATION MECHANICS:					
Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons	9.10	.065	.31	a	.04
ASBESTOS WORKERS	15.04	1.41	1.67		.04
BOILERMAKERS	14.97	8%	20%+.25	10%	.04
BRICKLAYERS, STONEMASONS, CEMENT MASONS & PLASTERERS:					
AREA 1	13.71	1.00	2.00		.05
AREA 2	12.60	.84	.90		.02
AREA 3	13.13	1.57	2.37		.03
AREA 4					
Bricklayers & Stonemasons					
Cement Masons	14.10	.75	1.35		.05
Plasterers	14.10	.75	1.35		.05
AREA 5	13.92	.85	1.05		.02

AREAS COVERED BY BRICKLAYERS AND STONEMASONS

AREA 1 - Bergen (north Arlington and Lyndhurst east of Ridge Road, north to Rutherford Ave. and Barrys' Creek, and west of the Hackensacks River), Essex (except Millburn Twp), and Hudson (that portion west of the Hackensack River) Counties

AREA 2 - Bergen (Wallington, part of East Patterson, Garfield, Lodi, North Arlington, and part of Lyndhurst) and Passaic Counties'

AREA 3 - Bergen (remainder of County) County

AREA 4 - Hudson (remainder of county) County

AREA 5 - Essex (Millburn Twp.) County

DECISION NO. NJ82-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS, INSULATORS & MILLWRIGHTS:					
AREA 1					
Carpenters & Insulators	14.75	8%	7%		½%
Millwrights	15.25	8%	7%		½%
AREA 2					
Carpenters & Insulators	14.75	8%	7%		½%
AREA 3	13.60	1.43	1.89		.06
AREA 4					
Carpenters & Insulators	12.57	8%	7%		1/5%
Millwrights	12.82	8%	7%		1/5%

AREAS COVERED BY CARPENTERS, INSULATORS & MILLWRIGHTS

AREA 1 - Essex and Hudson (that portion west of the Hackensack River) Counties

AREA 2 - Passaic County

AREA 3 - Bergen (east of Hackensack River including but not limited to Cliffside, Fort Lee, Grantwood, Palisades Park, Ridgefield Edgewater, Fairview, Leonia & Coytesville) and Hudson (that part east of the Hackensack River) Counties

AREA 4 - Bergen (remainder of county) County

DOCKBUILDERS & PILEDRIVERMEN	14.86	1.85	2.23	1.05	.10
DRYWALL TAPERS & FINISHERS	10.60	1.50	.50		.10
ELECTRICIANS & CABLE SPLICERS:					
Family residence construction not to exceed 4 unit apartments (Note: Firewalls alone are not a determinative criterion.)	9.25	7%	3%		.01
Other residential construction:					
Essex County	14.57	9%	17%		1/4%
Bergen & Hudson Counties	17.00	12%	9%+.58		5/10%
Passaic County:					
Wiremen	16.78	7%	10%+.50		
Cable Splicers	17.85	7%	10%+.50		

DECISION NO. NJ82-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTION:					
New Construction:					
Mechanics	13.21	1.195	.82+b	c+d	.02
Helpers	9.91				
Probationary Helpers	6.605				
Modernization:					
Mechanics	11.23	1.195	.82+b	c+d	.02
Helpers	8.42	1.195	.82+b	c+d	.02
Probationary Helpers	5.615				
Contract Repairs:					
Mechanics	11.23	1.195	.82+b	c+d	.02
Helpers	8.42	1.195	.82+b	c+d	.02
Probationary Helpers	5.615				
GLAZIERS:					
Bergen & Passaic Counties	11.17	.80	2.00	1.25	.03
Essex & Hudson Counties	15.70	1.25	3.00		.05
IRONWORKERS - STRUCTURAL, ORNAMENTAL & REINFORCING	15.35	1.15	2.85	1.15	.11
LABORERS:					
AREA 1					
Group 1	10.05	.85	.85		.10
AREA 2					
Group 1	9.55	1.20	1.00		.10
AREA 3					
Group 1	10.35	.70	.80		.10
Group 2	10.60	.70	.80		.10
AREA 4					
Unskilled Laborers	10.45	.80	.50		.10
AREA 5					
Unskilled Laborers	8.90	.75	.85		.10
AREA 6					
Group 1	8.50	.75	1.25		.10
AREA 7					
Unskilled Laborers	9.50	.90	.85		.10

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CLASSIFICATION DEFINITIONS FOR LABORERS

AREA 1 - Group 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay & plasterer tenders).

AREA 2 - Group 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay plasterer tenders, wrecking & excavation).

AREA 3 - Group 1 - Regular Laborers

AREA 3 - Group 2 - Carpenters Tenders, Bell Men, Mortar mixers, scaffold men & pneumatic hammer operators.

AREA 6 - Group 1 - Unskilled laborers, air tool operators, mason tenders, mortar mixers & pipelayers (concrete & clay).

AREAS COVERED BY LABORERS

AREA 1 - Bergen (Athenia, Allwood, Clifton (to Piaget Ave.), Dellawanna, Lodi, plus Garfield, Passaic, and Wallington Twps.) and Passaic Counties.

AREA 2 - Bergen (remainder of county) County.

AREA 3 - Essex (City of East Orange, Townships of South Orange and Maplewood).

AREA 4 - Essex (Orange & Montclair) County.

AREA 5 - Essex (Millburn Township) County.

AREA 6 - Essex (remainder of county) and Hudson (Kearny, East Newark and Harrison) Counties.

AREA 7 - Hudson (remainder of county) County.

DECISION NO. NJ82-3006	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.40	.15	.40		.02
LINE CONSTRUCTION:					
Essex County:					
Linemen, Cable Splicers, Line Equipment Operators, Line Truck Operators & Groundmen	15.13	9%	12%		3/4%
Passaic County:					
Linemen & Equipment Operators	16.78	7%	10%		3/4%
Cable Splicers	17.85	7%	10%		3/4%
Groundmen	70%JR				
Bergen & Hudson Counties:					
Linemen, Cable Splicers, Equipment Operators & Groundmen	17.00	12%	9%+.58		3/4%
MARBLE SETTERS, TERRAZZO WORKERS, & TILE SETTERS:					
Marble Setters	10.00	1.13	1.19	f	
Terrazzo Workers	11.18	1.21	1.50		
Tile Setters	9.15	.80	2.10		
MARBLE, TERRAZZO, AND TILE FINISHERS:					
Marble Finishers	8.28	1.09	1.23	f	
Terrazzo Finishers	9.49	.76	1.95		
Tile Finishers	9.35	.90	.90		
PAINTERS:					
Bergen & Passaic Counties:					
New & Old construction of one & two family houses:					
Painters & Tapers	9.30	1.35	2.60		.06
Other residential construction:					
Painters & Tapers	12.30	1.35	2.60		.06
Steel Outside	13.30	1.35	2.60		.06
Spray	13.85	1.35	2.60		.06
Essex & Hudson (West half of County) Counties:					
Painters on New Construction and Major Alterations	12.40	.80	.90		.08
Painters on Repaint Work	11.40	.80	.90		.08
Spraying or application of hazardous or dangerous materials on repaint work	12.00	.80	.90		.08

DECISION NO. NJ82-3006	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Exterior work exceeding 3 stories in height for painting of open structural steel and on interior work which requires painting higher than 20' above the ground or floor	12.55	.80	.90		.08
Repaint work as described above	11.55	.80	.90		.08
Spraying or application of hazardous or dangerous materials	13.00	.80	.90		.08
Hudson (remainder of county) County:					
Painters, paperhangers tapers, coverers, spacklers, preparatory and cleaning work	12.25	1.15	1.00	.50	.05
Extension ladder work (36 feet or over), scaffold work (except one or two family homes), and boatswain Chair	12.75	1.15	1.00	.50	.05
Spraying and sandblasting	13.25	1.15	1.00	.50	.05
PIPEFITTERS:					
Bergen, Hudson, and Passaic Counties	12.00	1.00	1.90	1.00	.25
Essex County	14.67	1.03	2.20	1.47	.10
PLUMBERS:					
Bergen, Hudson (excluding East Newark, Harrison, and Kearney), and Passaic Counties	15.78	1.00	2.65		.25
Hudson (East Newark, Harrison, and Kearney only) and Essex Counties	15.425	1.60	2.15		.25

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS A	17.37	1.80	1.40	g	.20
CLASS B	16.18	1.80	1.40	g	.20
CLASS C	14.87	1.80	1.40	g	.20
CLASS D	13.64	1.80	1.40	g	.20
CLASS E	12.73	1.80	1.40	g	.20
CLASS F	19.19	1.80	1.40	g	.20

POWER EQUIPMENT OPERATORS

CLASS A - Autograde - Combin. Subgrader, Base Mtl. Spreader & Base Trimmer (CMI & Similar Types), Autograde Placer-Trimmer-Spreader - Combn. (CMI & Similar Types), Autograde Slipform Paver (CMI & Similar Types), Backhoe, Central Power Plants (All Types), Concrete Paving Machines, Cranes (All Types, Including Overhead & Straddle Travelling Type), Cranes, Gantry, Derricks (Land or Floating), Drillmaster, Quarrymaster (Down the Hole Drill) Roatary Drill, Self Propelled Hydraulic Drill, Self-Powered Drill, Draglines, Elevator Graders, Front End Loaders (5 yds. and over), Gradalls, Grader, Rago, Helicopters, Co-Pilot, Helicopters, Communications Engineer, Locomotive (Large), Mucking Machines, Pavement & Concrete Breaker, i.e., Superhammer & Hoe Ram, Pile Driver, Length of Boom Including Length of Leads, shall determine premium Rate Applicable, Roadway Surface Grinder, Scooper (Loader and Shovel), Shovels, Tree Chopper with Boom, and Trench Machines

CLASS B - "A" Frame, Backhoe (Combination), Boom Attachment on Loaders (Rate Based on size of Bucket) Not applicable to Pipehook, Boring and Drilling Machines, Brush Chopper, Shredder, and Tree Shredder, Cableways, Carryalls, Concrete Pump, Concrete Pumping System, Pumpcrete & Similar Types, Conveyors, 125 ft. and over, Drill Doctor (Duties include Dust Collector, Maintenance), Front End Loaders (2 yds. but less than 5 yds.), Graders (Finisher), Groove Cutting Machine (Ride on Type), Heater Planer, HOISTS: (All Type Hoists, shall also include Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete, Brick Shaft Caisson, Snorkel Roof, and/or any other Similar Type Hoisting Machines, Portable or Stationary, except Chicago Boom Type) Long Boom Rate to be applied if Hoist is "Outside Material Tower Hoist"., Hoists (Chicago Boom Type), Hydraulic Cranes -- 10 Tons and Under, Hydro-Axle, Jacks, Screw Air Hydraulic Power Operated Unit or Console Type (not Hand Jack or Pile Load Test Type), Log Skidder, Pans, Pavers (all) Concrete, Pumpcrete Machines, Squeezecrete & Concrete Pumping (Regardless of Size), Scrapers, Side Booms, "Straddle" Carrier, Ross and Similar Types, and Winch Truck (Hoisting)

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS C - Asphalt Curbing Machine, Asphalt Plant Engineer, Asphalt Spreader, Autograde Tube Finisher & Texturing Machine (CMI & Similar Types), Autograde Curecrete Machine (CMI & Similar Types), Autograde Curb Trimmer & Sidewalk, Shoulder, Slipform (CMI & Similar Types), Bar Bending Machines (Power), Batchers, Batching Plant & Crusher on Site, Belt Conveyor Systems, Boom Type Skimmer Machines, Bridge Deck Finisher, Bulldozers (All), Car Dumpers (Rail road), Chief of Party, Compressor and Blower Type Units (Used independently or Mounted on Dual Purpose Trucks, on Job Site or in conjunction with Job Site, in Loading and Unloading of Concrete, Cement, Fly Ash, Instancrete, or Similar Type Materials), Compressor (2 or 3)--Battery, Concrete Breaking Machines, Concrete Finishing Machines, Concrete Saws & Cutters (Ride on type), Concrete Spreaders, Hetzel, Rexomatic and Similar Types-Concrete Vibrators, Conveyors, Under 125 ft., Crushing Machines, Ditching Machine, Small (Ditchwitch or Similar Type), Dope Pots (Mechanical with or without Pump), Dumpsters, Elevator, Fireman, Fork Lifts (Economobile, Lull & Similar Types of Equipment), Front End Loaders (1 yd. and over but less than 2 yds.), Generators (2 or 3) in Battery, Giraffe Grinders, Graders & Motor Patrols, Gunnite Machines (Excluding Nozzle), Hammer Vibratory (In Conjunction with Generator), Hoists (Roof, Tugger, Aerial Platform Hoist and House Cars), Hoppers, Hopper Doors (Power Operated), Ladders (Motorized Laddervator, Locomotive, Dinky Type, Maintenance, Utility Man, Mechanics, Mixers (Excepting Paving Mixers), Motor Patrols & Graders, Pavement Breakers, Small, Self-Propelled Ride on Type (also maintains Compressor or Hydraulic Unit), Pavement Breaker, Truck Mounted, Pipe Bending Machine (Power), Pitch Pump, Plaster Pump (Regardless of Size), Post Hole Digger (Post Pounder and Auger), Rod Bending Machines (Power), Roller, Black Top, Scales, Power, Seaman Pulverizing Mixer, Shoulder Widener, Silos, Skimmer Machines (Boom Type), Steel Cutting Machine, Services & Maintans, Tractor, Tug Captain, Vibrating Plants (Used in conjunction with Unloading), and Welder & Repair Mechanics

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS D _ Brooms and Sweepers, Chippers, Compressor (Single), Concrete Spreaders (Small Type), Conveyors (Under 125 ft.), Conveyor Loaders (Not including Elevator Graders), Engines, Large Diesel (1620 H.P.) and Staging Pump, Farm Tractors, Fertilizing Equipment (Operation and Maintenance of), Fine Grade Machine (Small Type), Form Line Graders (Small Type), Front Loader (Under 1 yd.), Generator (Single), Grease, Gas, Fuel and Oil Supply Trucks, Heaters (Nelson or other Type Including Propane, Natural Gas or Flowtype Units), Lights, Portable Generating Light Plants,Mixers, Concrete Small, Mulching Equipment (Operation and Maintenance of), Pumps (4 inch Suction and over Including Submersible Pumps)--Pumps- (2 of less than 4" suction & over including subm. pumps) --Pumps (Diesel Engine & Hyd.) immaterial of power Road Finishing Machines (Small Type), Rollers, Grade, Fill or Stone Base, Seeding Equipment (Operation and Maintenance of), Sprinkler and Water Pump Trucks (Used on Job Site or in Conjunction with Job Site), Steam Jennies and Boilers, Irrespective of Use, Stone Spreader, Tamping Machines, Vibrating Ride on, Temporary Heating Plant (Nelson or other Type Including Propane, Natural Gas or Flow Type Units), Water and Sprinkler Trucks (Used on Job Site or in Conjunction with Job Site), Welding Machines (Gas, Diesel, and/or Electric Converters of any type, Single; Two or Three in a Battery), Welding System, Multiple (Rectifier Transformer Type), Wellpoint Systems (Including Installation by Bull Gang and Maintenance of)

CLASS E - Assistant Engineer/Oiler, Tire Repair and Maintenance and Transit/Instrument Man

CLASS F - HELICOPTERS-Pilot and HELICOPTER-Engineer

DECISION NO. NJ82-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bergen & Passaic Counties:					
Composition	14.35	1.34	1.00		
Slate & Tile	12.15	1.00	1.30		
Essex County:					
Composition, Damp, Waterproofing, Slate, and Tile	16.47	1.00	1.00		
Hudson County:					
West of the Hackensack River:					
Composition, Damp, Waterproofing, Slate, and Tile	16.47	1.00	1.00		
East of the Hackensack River:					
Composition, Damp, and Waterproofing	9.85	1.59	2.65	.65	
SHEET METAL WORKERS:					
Bergen and Hudson Counties	12.80	1.22	4%+1.24	.58	.04
Essex and Passaic Counties	14.20	4%+.75	9%+.83	8%	.05
SOFT FLOOR LAYERS	12.73	7%	5%	4%	
SPRINKLER FITTERS	16.03	.95	1.40		.07
TRUCK DRIVERS:					
Bergen, Hudson and Passaic Counties:					
GROUP 1	7.27	.68	.75	h+i	
GROUP 2	7.50	.68	.75	h+i	
GROUP 3	7.55	.68	.75	h+i	
GROUP 4	7.65	.68	.75	h+i	
GROUP 5	7.75	.68	.75	h+i	
Essex County:					
GROUP 1	11.72	1.03	1.575	h+i	
GROUP 2	11.95	1.03	1.575	h+i	
GROUP 3	12.00	1.03	1.575	h+i	
GROUP 4	12.10	1.03	1.575	h+i	
GROUP 5	12.20	1.03	1.575	h+i	

DECISION NO. NJ82-3006

CLASSIFICATION DEFINITIONS FOR TRUCK DRIVERS

GROUP 1 - Mechanic Helper

GROUP 2 - Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pickups, Container Haulers, Fuel, Water Sprinkler, Road Oil, Stringer, Bead, Hot Pass, Bus, Dumpcrete, Transit Mixers, Half Truck, Winch Truck, Side-o-Matic, Dynamite, Powder, X-Ray, Welding, Skid, Jeep, Station Wagon,Stringer, A-Frame, All Dual Purpose Trucks, Trucks with mechanical tail gates, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (in transit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor & Spreader, Nipper, Fuel Trucks (drivers on Fuel Trucks including handling of hose & nozzle-entire unit), Team Drivers, Vacuum or Vac-all Trucks (entire unit), Skid Truck (debris container - - entire unit), concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pump Crete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tack Trucks, Warehousemen, Warehouse Parts-Men, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checkers, Receivers, Shippers, Binning Men (Materials), Cardex Man, helper when required on Broyhill Coal Tar Epoxy Truck & Asphalt & Bituminous Distributor Truck, Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little-Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thiokol Track Master Pickup (Swamp Cat Pickup), Bucket Loader Dump Truck & any Rubber Tired Tractor used in pulling & towing Farm Wagons & Trailers of any description, similar type vehicles, Off-site & On-site Repair Shop, and Agitator Mixers

GROUP 3 - Driverson straight 3-Axle Materials: Truck & Floats.

GROUP 4 - Drivers on all Euclid Type Vehicles: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors & Wagons, Dumptors, Straight, Bottom, Rear & Side Dumps, Carryalls & Scrapers (not self loading-loading over the top), Water Sprinkler Trailer, Water Pulls & similar types of Vehicles; Drivers on Tractors & Trailer type vehicles: Flat, Floats, I-beams, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel, Bottom Dump Hopper, Rear Dump, Office, Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole, Spread, Bituminous Distributor, Water Pulls (entire unit) (Tractor Trailer), Reel Trailer, and similar types of vehicles

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GROUP 5 - Winch Trailers Drivers

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Years' Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

a. Holidays: New Years' Day, Washingtons' Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Armistice Day, and Christmas Day

b. Employer contributes $8.00 per day per employee to an Annuity Fund.

c. Holidays: A through F; plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day & Armistice Day.

d. Employees with 6 months of service but less than 5 years of service receive 2 weeks vacation; those with 5 or more years of service receive 3 weeks vacation.

e. Holidays: A through F; plus Washington's Birthday, Good Friday and Christmas Eve, providing the employee has worked 45 full days for the employer during 120 calendar days immediately prior to the holiday and the employee works his regularly scheduled work days immediately preceeding and following the holiday.

f. Holiday: St. Patrick's Day

g. Holidays: A through F; plus Washington's Birthday, Presidential Election Day and Veterans' Day providing the employee works any of the 3 days in the 5 days preceeding the holiday and the first work day after the recognized holiday.

h. All employees who are assigned to work on Sundays or the following Holidays: NEW YEARS DAY, MARTIN LUTHER KING"S BIRTHDAY, LINCOLN'S BIRTHDAY, WASHINGTON'S BIRTHDAY, GOOD FRIDAY, DECORATION DAY, INDEPENDENCE DAY, LABOR DAY, GENERAL ELECTION DAY, COLUMBUS DAY, VETERANS' DAY, THANKSGIVING DAY, CHRISTMAS DAY, and any new holiday proclaimed by the Federal Government (not days of mourning), shall be paid two and one half times the rates listed for all hours worked which includes the holiday pay.

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FOOTNOTES: (CONT'D)

i. Employees working or receiving pay for 80 days within a year receive one week's vacation (48 hours); 125 days receive two weeks vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours).

j. Employer contribution of $165 per month per employee Health and Welfare funds.

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Bucks, Chester, Delaware, Montgomery & Philadelphia

DECISION NO.: PA82-3007

DATE: Date of Publication

Supersedes Decision No.: PA81-3060 dated October 3, 1980, in 45 FR 659028.

DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to and including 4 stories (Chester County Building, Construction Only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	15.77	1.00	1.64		.08
ZONE 2	12.10	.90	1.05		.025

AREA COVERED BY ASBESTOS WORKERS

ZONE 1 - Chester, Delaware, Montgomery, Philadelphia and Remainder of Bucks County

ZONE 2 - Bridgeton, Durham, Lower Makefield, Middletown Falls, Morristown, New Hope, Newton, Noxkamixon, Plumstead Riegelsville, Solebury, Tullytown, Tinicum, Upper Makefield and Yardley Townships in Bucks County

BOILERMAKER	16.67	1.275	1.00		.02
BRICKLAYERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	10.48	.77	1.05		.02
New Residential:					
Under 4 stories	12.47	1.00	1.30		.02
All other Work:					
ZONE 1	13.28	1.30	1.40		.02
ZONE 2	12.00	1.37	1.75		.02
ZONE 3	13.21	1.22	1.55		.02

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Bucks, Chester, Philadelphia Counties, Radnor and Haverford Township in Delaware County, Lower Marion, Abington, Upper Moreland and Cheltenhan Townships in Montgomery County

ZONE 2 - Remainder of Delaware County

ZONE 3 - Remainder of Montgomery County

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four(4) stories which is intended for predominently resident use	11.52	2.63	1.40		.13
Residential Under 4					
Bucks, Delaware and Montgomery Counties	10.38	1.13	1.40		.13
Philadelphia County	12.42	2.63	1.40		.13
All other work	12.52	2.63	1.40		.13
CEMENT MASONS:					
Rehabilitation work to include demolition, on any existing structure of not more than four(4) stories which is intended for predominently residental use:					
ZONE 1	10.02	2.09	2.20		
All other work:					
ZONE 1	11.60	2.09	2.60		
ZONE 2	8.70	.58	.42		
ZONE 3	10.79		1.65		

AREA COVERED BY CEMENT MASONS ZONES

ZONE 1 - Bucks, Delaware and Philadelphia Counties, Remainder of Chester County and Remainder of Montgomery County

ZONE 2 - Oxford, Kenneth Square, Avondale and Longwood Townships in Chester County

ZONE 3 - Pennsburg and Pottstown Townships in Montgomery County

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FINAL CLEAN-UP CREW:					
When construction cleaning completed and general contractor and all construction sub-contractors are off the job:					
Janitorial Cleaner	4.68	.30	.13	a+b	
Window Cleaner	5.99	.30	.13	a+b	

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Good Friday; Decoration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day, plus vacation pay for employee who have been employed by the employer for one year may receive five paid holidays; two years ten paid holidays, five years twelve paid holidays; ten years fifteen paid holidays, eighteen years twenty paid holidays, twenty five years twenty five paid holidays.

b. Funeral Leave: Employee's shall be granted three consecutive calendar days in the case of a parent, spouse, child, brother or sister of an employee, if the employee normal time off falls within the three day period, the employee will be reimbursed for that portion of time normally scheduled for work, should death occur during an employee's scheduled vacation, there will be no funeral leave payment. Funeral leave under no circumstances results in a change in employee's basic weekly salary.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL FINISHERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structures of not more than four(4) stories which is intended for predominently residential use	9.50	1.69	.75		.03
All other work	12.03	1.91	1.00	1.00	.03
ELECTRICIANS:					
Rehabilitation work to include demolition,repair & alteration, on any alteration, on any existing structure of not more than four(4) stories which is intended for predominently residential use:					
ZONE 1	14.92	6%	3%+6%		.24
ZONE 2	10.74	.71	3%+.83		.06
ZONE 3	9.75	.46	3%+.58		.15
ELECTRICIANS					
ZONE 1					
Commercial	15.75	1.10	3%+.95		.28
Residential up to and including 4 stories	14.23	6%	6%		.24
ZONE 2					
Commercial	16.09	5%	9%		1.5%
Residential up to and including 3 stories	10.74	.71	3%+.81		.06
ZONE 3					
Commercial	15.27	6%	3%+13%		1/2 of1%
Residential up to and including 3 stories	9.85	.59	3%+1.28		1/2 of1%
ZONE 4					
Commercial	14.03	1.15	1.26		1/4 of1%
ZONE 5					
Commercial	14.49	.78	3%+.64		.04
ZONE 6					
Commercial	15.00	1.05	3%+1.00		.02
ZONE 7					
Commercial	14.05	.70	3%+.80		.04
ZONE 8					
Commercial	14.64	7%	3%+.80		.15
ZONE 9					
Commercial	12.55	.60	3%		.03%

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AREA COVERED BY ELECTRICIANS ZONES

ZONE 1

Bucks County - starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad bridge to Route 09113, north 09113 to Route 152, north along Route 152 to the Humeville Road, east on Humeville Road to Route 333, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 to Route 09028, west on 09028 to Route 152, north on 152 to TR 232, north on TR 532 to Tr 113, north on TR 113 to TR 232 at Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Borough of New Hope is excluded.

starting at the Delaware at the Delaware River and proceeding southwest along the Plumstead-Solebury and the Plumstead-Buckingham Township lines to Route 09064, northwest on 09064 to U.S. Highway 611 south on 611 to the spur of Route 270, northwest along the spur to Route 397, southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041 southwest on 09041 to the Montgomery County line.

Delaware County - that portion east of a line following State Highway 320 from Montgomery County to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road, along Powell Road to State Highway 420 and continuing in a straight line to the Delaware River.

Montgomery County - that portion southeast of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309), south on the Bethlehem Pike to the Penllyn Pike, southwest on the Penllyn and Blue Bell Pikes to the Wissahickon Creek, southeast on the Wissahickon Creek to the Butler Pike to North Lane near Conshohocken Borough, southwest on North Lane to Schuylkill River and continuing southeast in a line to the Spring Mill Road and southwest on the Spring Mill Road to Delaware County.

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AREA COVERED BY ELECTRICIANS ZONE CONT'D

Philadelphia County - in its entirety.

ZONE 2

Bucks County - Hilltown and New Britain Townships in their entirety; that portion of telford Borough northeast of County Line Road (Main Street) and bounded by West Rockhill and Hilltown Township; that portion of Dublin Borough west of State Highway 313, and that portion of Doylestown and Warrington Townships and Doylestown Borough northwest of a line following U.S. Highway 611 south from Route 09064 to the spur of Route 270, and proceeding northwest along the spur to Route 397, southwest on 397 to Route 350, Southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041, southwest on 09041 to the Montgomery County Line.

Chester County - East Coventry, East Vincent, West Vincent, East Pikeland, West Pikeland, Uwchlan, Upper Uwchlan, East Brandywine, Schuylkill and Charlestown Townships in their entirety, and that portion of Caln, East Caln, West Whiteland, East Whiteland, Tredyffrin, Willstown, Easttown Townships and the Borough of Downingtown north of U. S. Highway 30.

Delaware County - That portion of Radnor Township north of U.S. Highway 30 and west of State Highway 320.

Norristown, Montgomery County - That portion northwest of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309), south on Bethlehem Pike to the Penllyn Pike, southwest onthe Penllyn and Blue Bell Pikes to the Wissahickon Creek to the Butler Pike, southwest Wissahickon Creek to the Butler Pike, southwest on the Butler Pike, to North Lane near Conshohocken Borough, southeast on North Lane to the Schuylkill River and continuing southeast in a line to the Spring Mill Road, southwest on the Spring Mill Road to Delaware County; but excluding Upper Hanover, Douglas, Upper Pottsgrove, West Pottsgrove Townships and also excluding that portion of the

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AREA COVERED BY ELECTRICIANS ZONE CONT'D

ZONE 2 CONT'D

Borough of Pottstown north and west of a line drawn northeast on Keim Street from the Schuylkill River to the Reading Railroad northwest on the railroad to Madison Street, to High Street, east on High Street to Green Street, north on Green Street and northeast on Mintzer Street to the Lower Pottsgrove Township Line, along this township line and the borough line northwest to Adams Street and the Beehive Road, northeast on the Beehive Road to the Township Line at Mervine Street in the State Of Pennsylvania.

ZONE 3

Chester County - That portion south of U.S. Highway 30 and north and west of U. S. Highway 1

Delaware County - That portion south of U.S. Highway 30 and north of that part of U.S. Highway 1 between U.S. Highway 202 and the Chester County Line, and east of that part of U.S. Highway 202 betwen U.S. Highway 1 and the Delaware Line, and west of a line extending from Montgomery County along State Route 320 to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road; along Powell Road to State Highway 420; along 420 and continuing in a straight line to the Delaware River in the State of Pennsylvania.

ZONE 4

Chester County - Oxford, Avondale and Kenneth Square Twps.

ZONE 5

Chester County - West Clan, West Brandywine, Honey Brook, Wallace, West Nantmeal, East Nantmeal, Warwich, South Coventy, Valley Twps. and Coatesville.

Montgomery County - West Pottsgrove, Upper Pottsgrove, Douglas Twps., Pottstown.

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AREA COVERED BY ELECTRICIANS ZONE CONT'D

ZONE 6
Bucks County - Plumstead, Bedminister, Tinicum, Nockomixon, Bridgeton and Durham Townships in their entireties, and that portion of Haycock and Springfield Townships east of a line following State Highway 412, from Northampton County south to Route 09071 to State Highway 212, along highway 212 to Route 09068, and along 09068 to State Highway 313. Also included is that portion of Bublin Borough east of State Highway 313.

ZONE 7
Bucks County - East Rock Hill, West Rock Hill, Milford and Richland Townships in their entirety and that portion of Haycock and Springfield Townships west of a line following State Highway 212 from Northampton County South to Route 09071 along 09071 to State Highway 212, along Highway 212 to Route 09068 and along 09068 to State Highway 313

Montgomery County - Upper Hanover in its entirety

ZONE 8
Bucks County - That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152 to the Hulmevilla Rd., east on the Hulmeville to Route 344, north on Route 344 to the junction of Spurs 281 and 252 continue north on Spur 252 and Route 09028, west on 09028 to Route 152, north on 152 to TR 532, north on TR 532 to TR 113, north on TR 113 to TR 232 as Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, West on 09060 to Route 402, north on 402 to the Borough Line at the southwest corner of the Borough of New Hope. The Boroughs of New Hope and Bristol are included.

ZONE 9
Chester County - That portion of Sadsbury and West Sadsbury Township north of U. S. Highway 30.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	14.72	1.345	1.085	a+b	.035
Elevator Constructors Helpers	10.30	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	7.36				
GLAZIERS					
ZONE 1	13.66	.95	1.80		.03
ZONE 2	11.54	.75	.70		.015

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Delaware and Philadelphia Counties, Remainder of Bucks, Chester and Montgomery Counties

ZONE 2 - Milford, West Rockville, Rickland, E. Rockville, Haycock, Durham, Springfield, Richlandtown, Sqoherton, Nockamixon Townships in Bucks County, Warwick, S. Coventry, E. Coventry, N. Coventry, Spring City and Royersford Townships in Chester County, Pottstown, Lower Pottsgrove, Limrick, Lower Frederick, Upper Salford, Sounderton, Greeland, Upper Hanover, New Hanover, Douglas, Marlboro Twps. in Mongtomery County

IRONWORKERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	11.62	1.14	1.36		.04
All other work					
ZONE 1	12.20	1.34	1.11	1.05	.05
ZONE 2	14.95	1.49	1.46		.05
ZONE 3					
Structural & Ornamental	15.00	1.49	1.46		.04
Reinforcing	14.21	2.95	1.00		.05

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AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Bucks County

ZONE 2 - Chester County

ZONE 3 - Delaware, Montgomery and Philadelphia Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Rigger, machinery mover	14.78	1.49	1.46		
LABORERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
CLASS I	8.55	.90	.65		
CLASS II	8.65	.90	.65		
CLASS III	8.70	.90	.65		
CLASS IV	8.85	.90	.65		
CLASS V	8.95	.90	.65		
CLASS VI	8.49	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concrete form work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pheumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

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CLASSIFICATION DEFINITIONS CONT'D

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
New Residential under 4 stories	9.08	.90	.85		.025
All other work					
CLASS I	11.05	.90	.85		.25
CLASS II	11.15	.90	.85		.25
CLASS III	11.20	.90	.85		.25
CLASS IV	11.35	.90	.85		.25
CLASS V	11.45	.90	.85		.25
CLASS VI	10.99	.90	.85		.25

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concrete form work, loading, carry 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pheumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard Workers

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE LABORERS:					
CLASS I	8.30	.95	.85	c	
CLASS II	8.80	.95	.85	c	

CLASSIFICATIONS DEFINITIONS

CLASS I - Landscape Laborers

CLASS II - Farm tractor driver, hydroseeder nozzle man and mulcher nozzle man

LATHERS					
ZONE 1	12.52	2.63	1.40		.23
ZONE 2	11.15	1.25	.15		.01
ZONE 3	11.61	.65	.35		.01
ZONE 4	11.40	.15	.40		.02

AREA COVERED BY LATHERS ZONES

ZONE 1 - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE 2 - Coatesville & lower part of Chester County

ZONE 3 - Milford, Trumbersville, Richland, Quakertown, Springfield, Durham, Riegelsville, Bridgetown, Noxkamixon, Tinicum, Plumstead, Dublin, Bedminister, Haycock, East Rockhill, Perkasie, Sellersville, West Rockhill Townships in Bucks County

ZONE 4 - Solebury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown Townships in Bucks County

LEAD BURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION					
ZONE 1					
Linemen	16.27	.60	3%		1%
Groundmen	9.76	.60	3%		1%
Winch truck operator	11.39	.60	3%		1%
ZONE 2					
Linemen, cable splicers, heavy equipment operator, truck driver	15.27	7%	3%+.80		3/4%
Groundman, winch operator	12.22	7%	3%+.80		3/4%

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AREA COVERED BY LINE CONSTRUCTION

ZONE 1 - Remainder of Bucks County, Chester, Delaware, Montgomery, Philadelphia Counties

ZONE 2 - Bucks county; That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U. S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152 to the Hulmeville Rd., east on the Hulmeville to Route 344, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 and Route 09028, west on 09028 to Route 152, north on 152 to Tr 532, north on Tr 532 to Tr 113, north on Tr 113 to Tr 232 at Anchor Inn, northeast on Tr 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough Line at the southwest corner of the Borough of New Hope. The Boroughs of New Hope and Bristol are included

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	11.10	.87	1.57		
MARBLE FINISHERS	9.89	1.45	1.75		
MILLWRIGHTS	13.02	2.63	1.40		.13
PAINTERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	10.00	1.225	.60		.06
All other work:					
ZONE 1					
Brush	13.00	1.30	.90		.08
Spray, steel & swing	13.45	1.30	.90		.08
Roller	13.00	1.30	.90		.08

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
ZONE 2					
Commercial, brush	13.28	1.24	1.25		
Commercial, spray	13.78	1.24	1.25		
ZONE 3					
Brush	11.05	1.10	1.00		
Steel and spray	12.05	1.10	1.00		
Roller	11.05	1.10	1.00		
ZONE 4					
Brush	13.14	1.60	1.30		
Steel	13.89	1.60	1.30		

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Bucks & Philadelphia Counties: Randnor, Haverford, Newton, Maple, Springfield, Upper Darby, Barby, Ridley, Tinicum & Yeondon Townships in Delaware County, Cheltenahm, Abington, Upper and Lower Moreland, Springfield Whitemarsh, Plymouth, Upper Dubling, Horsham, Whitpain, Upper and Lower Gwynodd, Lower Marion, Upper Southampton, Townships in Montgomery County

ZONE 2 - Chester County and Remainder of Delaware County

ZONE 3 - Pottstown, Pottsgrove, New Hanover and Douglas Townships in Montgomery County

ZONE 4 - Remainder of Montgomery County

PAPERHANGERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use	10.89	.95	.60		.03
PILEDRIVERMEN	12.97	3.13	1.40	f	.13

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POINTERS, CAULKERS AND CLEANERS	13.53	1.25	1.35		
PLASTERERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure or not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	9.49	.93			.01
All other work					
Zone 1	12.96	.93			.01
Zone 2	10.81		1.65		.01
Zone 3	11.62	.90			.01
Zone 4	9.45				.01

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Bucks & Philadelphia Counties; remainder of Chester County, Remainder of Montgomery County

ZONE 2 - Pennsburg Township in Montgomery County

ZONE 3 - Longwood, Kennett Square, Avondale and Oxford Townships in Chester County

ZONE 4 - Delaware County

PLUMBERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure or not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	12.13	.81	1.30		.14
All other work:					
ZONE 1	16.48	1.10	1.40		.14
ZONE 2	15.08	1.10	1.40		.14

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AREA COVERED BY PLUMBERS ZONES

ZONE 1 - Delaware, Chester, Montgomery, Philadelphia Counties; remainder of Bucks County

ZONE 2 - Bridgton, Durnham, Haycock, Milford, Nockamixon, Richland, East Rockhill, West Rockhill and Springfield Townships in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Residential structure of not more than 4 stories re-roofing					
ZONE 1	12.10	1.00	.75		
All other work:					
ZONE 1					
Commercial					
Composition, damp & waterproofers	15.67	1.40	.95	e	
Roofers Assistant	7.75	1.40	.95	e	
ZONE 2					
Commercial					
Composition & slate	12.28		1.55		
ZONE 3					
Commercial					
Composition roofers	11.62	1.33	.80		

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AREA COVERED BY ROOFERS ZONES

ZONE 1 - Chester, Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks County

ZONE 2 - Milford, Trumbbaversville, Richland, Quakertown, Strongfield, Durham, Reigllville Townships in Bucks County

ZONE 3 - Solebury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown and Bistol Townships in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1 (Commercial)	15.74	1.17	2.24		.07
ZONE 2 (Residential)	7.43	1.02	1.65		
ZONE 3 (Commercial)	13.86	2.67	1.32		.04

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Remainder of Bucks, Chester, Delaware, Montgomery & Philadelphia Counties

ZONE 2 - Chester, Delaware, Montgomery Counties and Bucks County excluding the Townships of Falls, Buckingham, Newton, Upper and Lower Makefield, Solebury, Plumstead and Wrightstown

ZONE 3 - Townships in Bucks County; Plumstead, Solesbury, Buckingham, Wrightstown, Upper and Lower Makefield, Newton and Falls

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use	9.08	2.63	1.40		.13
All other work	11.78	2.93	1.40		.13
SPRINKLER FITTERS					
ZONE 1	15.56	.95	1.40		.08
ZONE 2	15.62	.95	1.40		.10

AREA COVERED BY SPRINKLER FITTERS ZONES

ZONE 1 - Bucks, Chester, Delaware & Montgomery Counties

ZONE 2 - Philadelphia County

STEAM FITTERS					
ZONE 1	16.01	.95	2.05		.11
ZONE 2	15.61	.95	2.05		.11

AREA COVERED BY STEAMFITTERS ZONES

ZONE 1 - Chester, Delaware, Montgomery, Philadelphia Counties, Remainder of Bucks County

ZONE 2 - Bucks County; Townships of Bridgton, Durham, Haycock, Milford, Nockamixon, Richland, East Rockhill, West Rockhill and Springfield

STONE MASONS					
ZONE 1	12.20	.98	1.87		
ZONE 2	13.21	1.22	1.55		.02
ZONE 3	13.28	1.30	1.40		.02
ZONE 4	11.10	.87	1.57		

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AREA COVERED BY STONE MASONS ZONES

ZONE 1 - Delaware & Philadelphia Counties; Remainder of Bucks County

ZONE 2 - Montgomery County

ZONE 3 - Chester County

ZONE 4 - Bristol Township in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOUND AND PUBLIC ADDRESS INSTALLATION TECHICIANS (Existing building only)	9.50		3%		
TERRAZZO WORKERS	11.84	.98	1.87		
TERRAZZO FINISHERS	9.87	1.45	1.75		
TILE SETTERS					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential	10.25	1.25	.40		.14
All other work	10.75	1.55	1.95		.14
TILE SETTERS FINISHERS	9.66	1.45	1.75		
WELDERS - rate prescribed for craft performing operation to which welding is incidental.					

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Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Holidays: July 4th; Labor Day and Thanksgiving Day.

d. Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

e. Holidays: Election Day.

f. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday & is available for work the days preceding & following the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	14.58	10%	10.3%	a	1.3%
GROUP 2	14.32	10%	10.3%	a	1.3%
GROUP 3	13.45	10%	10.3%	a	1.3%
GROUP 4	13.24	10%	10.3%	a	1.3%
GROUP 5	12.93	10%	10.3%	a	1.3%
GROUP 6	12.76	10%	10.3%	a	1.3%
GROUP 7	12.25	10%	10.3%	a	1.3%
GROUP 8	11.51	10%	10.3%	a	1.3%

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1 - Handling steel and stone in connection with erection, cranes doing hook work, any machine handling machinery, cable spinning machine, helicopters, machines similar to above

GROUP 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pippin type backhoes, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists - double drum (unless used as single drum) mucking machines in tunnel, gradalls, frontend loaders 3½ cu. yd. 7 over boat captain, tandem, scrapers, tower type crane operation, erecting, dismantling, jumping or jacking, drills self-contained (drillmaster type) fork lift (20 ft. and over), motor patrols (fine grade) batch plant with mixer, machine similar to the above

GROUP 3 - Conveyors (except building conveyors) building hoists (single drum) scrapers and tournapulls, asphalt plant engineers, roller (high grade finishing) front-end loaders under 3½ cu. yds. mechanic-welder, spreaders, high or low pressure boilers, concrete pumps, well drillers, front lift trucks of all types bulldozers and tractors, ditch witch type trencher, motor patrol, machines similar to the above

GROUP 4 - Concrete breaking machines rollers, machines similar to the above

DECISION NO. PA82-3007

POWER EQUIPMENT OPERATORS CLASSIFICATIONS CONT'D

GROUP 5 - Seaman pulverizing mixer, tireman on power equipment maintenance engineer(power boat) machines similar to the above

GROUP 6 - Conveyors (building) welding machines, heaters, well-points, compressors, farm tractors, fine grade machines, from line graders, road finishing machines, pumps, power broom (self-contained), seed spreader, machines similar to the above

GROUP 7 - Fireman, grease truck

GROUP 8 - Oilers and deck hands (personnel boats) grease truck helper

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day providing the employee works the day before and after the holiday.

"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))."

DECISION NO. PA82-3007

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	10.35	1.0675	1.225	a+b	
CLASS II	10.45	1.0675	1.275	a+b	
CLASS III	10.65	1.0675	1.275	a+b	

CLASSIFICATIONS DEFINTITIONS

CLASS I - Warehouseman, checker, fork lift driver, stake body truck (single axle), 1½ ton and under vehicles

CLASS II - Truck driver over 1½ tons, dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS III - Euclid type-off-highway equipment - back or belly dump trucks and double - hitched equipment straddle (Ross) carrier, lowbed trailers

FOOTNOTES:
a. Employer will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days (40 hours pay) calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation, employees with five (5) years or more senority shall be eligible for two (2) weeks of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day; Veterans Day and (5) personal holidays for employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the schedule work days before and after the said holidays.

DECISION NO. PA82-3007

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: HEAVY & HIGHWAY INCLUDING SITE PREPARATION, PAVING & UTILITIES ON BUILDING CONSTRUCTION					
CLASS 1	10.20	1.0675	1.225	a+b	
CLASS 2	10.30	1.0675	1.225	a+b	
CLASS 3	10.50	1.0675	1.225	a+b	

SITE PREPARATION, PAVING, AND UTILITIES CLASSIFICATIONS

CLASS 1: Helpers, Stake Body Truck (single axle, dumpster)

CLASS 2: Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS 3: Euclid type, off-highway equipment or belly dump trucks and double hitched equipment, staddle (ross) carrier, low-bed trailers

FOOTNOTES:

a. Employee will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days per calendar year. During each two (2) consecutive months period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and Veterans Day and five (5) personal holidays provided such employee work the scheduled work days before and after said holiday; and employee gives employer one (1) week's notice requesting a personal holiday. The eligibility for personal holidays will be as follows: Employee will earn one (1) personal holiday every two (2) months up to a maximum of five (5) personal holidays per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all personal holidays.

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTIES: Ashland, Bayfield and Douglas

DECISION NO.: WI82-2004 DATE: Date of Publication

Supersedes Decision No.WI80-2027 dtd April 18, 1980 in 45 FR 26656

DESCRIPTION OF WORK: Building (including Residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.85	.70	.75	1.65	.01
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS	13.82	.90	.65		.01
CARPENTERS: Ashland County	12.20	.60	1.10	.40	
Bayfield & Douglas Cos.	12.40	.70	.85	.75	
(Residential) Bayfield & Douglas Cos.	7.67	.60	.50		.05
(Residential) Ashland	9.20	.60	.50		
CEMENT MASONS:					
Douglas County	14.10	.70			
Ashland & Bayfield County	13.00	.90	.65		.01
ELECTRICIANS	14.62	5%	11%	11%	1%
Residential	9.50	.73	3%		¼ of 1%
ELEVATOR CONSTRUCTORS	13.51	1.345	1.085	a+b	.035
Helpers	9.46	1.345	1.085	a+b	.035
Helpers (Probationary)	6.755				
IRONWORKERS	13.97	.70	.90	1.00	.02
LINE CONSTRUCTION:					
Linemen	14.40	.45	9%		1¼%
Heavy Equipment Operator	12.96	.45	9%		1¼%
Light Equipment Operator	11.52	.45	9%		1¼%
Heavy Groundman - Truck Driver	10.08	.45	9%		1¼%
Light Groundman - Truck Driver	9.36	.45	9%		1¼%
Groundman	7.92	.45	9%		1¼%
MILLWRIGHTS & PILEDRIVERMEN					
Ashland County	12.40	.60	1.10	.40	
Bayfield & Douglas Cos.; Millwrights	12.87	.70	.85	.75	
Piledrivermen	12.65	.70	.65	.75	
PAINTERS:					
Brush	13.61	.70	.70		.13
Spray	14.21	.70	.70		.13
PLASTERERS	13.75	.70		.55	
PLUMBERS	13.66	.70	1.10	1.50	.20
ROOFERS	12.83	.70	.60	1.50	
SHEET METAL WORKERS	13.67	.70	.78	1.50	.06
SOFT FLOOR LAYERS	12.40	.70	.85	.75	
SPRINKLER FITTERS	15.31	.95	1.40		.08
TERRAZZO WORKERS	13.82	.90	.65		.01
TILE SETTERS	13.82	.90	.65		.01
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI82-2004

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Ashland County only					
General Laborer					
Concrete Work and carrying reinforcing or any steel	10.58	.65	.55		.03
Mason Tenders, Bricklayers' Tenders, Sewer Diggers, Pipelayers, Operating Small Mixers or mixing by hand, Operating Power Tools such as Jackhammers, Vibrator, Air spade and Forklift	10.73	.65	.55		.03
Laborers:					
Bayfield & Douglas Cos.					
General Laborer, Mason Tender, Mortar Mixer, Air Hammer, Air Spade & Jack Hammer Operators	10.92	.65	.55	.50	.03
Plasterer Laborer	11.17	.65	.55	.50	.03

PAID HOKIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: A through F plus Washington's Birthday and Good Friday providing employee has worked 45 full days during the 120 calendar days prior to the holiday, regularly scheduled work days immediately preceding and following the holiday.

DECISION NO. WI82-2004

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KWO, Pumps (3" and under); winches (small electric), Oiler and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

[FR Doc. 82-4977 Filed 2-25-82; 8:45 am]
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federal register

Friday
February 26, 1982

Part IV

Department of the Interior

Bureau of Land Management

Amendments to the Regulations Covering Oil and Gas Leasing on Federal Lands

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, and 3130

[Circular No. 2497]

Amendments to the Regulations Covering Oil and Gas Leasing on Federal Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking will dramatically reduce the regulatory burden imposed on the public and the Department of the Interior in connection with the noncompetitive oil and gas leasing program by eliminating from current regulations: (1) The requirement that simultaneous oil and gas lease application filing fees be paid by guaranteed remittance; (2) the mandatory use of pre-numbered assignment forms for the transfer of oil and gas leases; and (3) the requirement to submit documents related to qualifications prior to lease acquisition.

EFFECTIVE DATE: February 26, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles Weller; (202) 343–7722.

SUPPLEMENTARY INFORMATION: For several years, the Federal Government's noncompetitive oil and gas leasing effort has not kept pace with the demand for access to the public lands for oil and gas development. The Bureau of Land Management, in coordination with the Forest Service, the Minerals Management Service, the Department of Defense and other agencies, is aggressively pursuing initiatives designed to provide access to lands more quickly so that the United States can realize the fullest potential of its domestic resources. One major way to provide quicker access is to speed the process of lease issuance by eliminating unnecessary procedures which have been developed over time. Elimination of these procedures also allows significant savings to the public by reducing the amount of information that must be submitted in conjunction with oil and gas leasing.

This final interim rulemaking eliminates the requirement that simultaneous oil and gas lease application filing fees be paid by guaranteed remittance. This requirement has caused significant confusion to the public and the Bureau of Land Management as to what constitutes a guaranteed remittance, has resulted in a number of administrative appeals and has burdened the public out of proportion to the problem of bad checks that it was designed to address. In the future, the Bureau will use normal collection procedures for uncollected remittances instead of requiring all applicants to use particular forms of remittances.

This interim final rulemaking also eliminates the mandatory use of prenumbered assignment forms for the transfer of oil and gas leases. This requirement was imposed in May of 1980 in response to the preliminary indications of a criminal investigation that as much as 80 percent of all simultaneous oil and gas lease applications were fraudulent. More conclusive evidence from the ongoing investigation indicates that the extent of the problem was grossly overestimated. With this new perspective, the impediments to lease development which resulted from the required use of pre-numbered forms are not justified. The Department of the Interior is confident that the ongoing investigative effort under the Office of the Inspector General is sufficient to detect fraudulent manipulation of the leasing process should it reoccur.

Another change made by this final interim rulemaking would be the elimination of the requirement that documents relating to qualifications be submitted in conjunction with lease applications and assignments by trusts, associations, corporations, agents, other-parties-in-interest and municipalities. These documents were originally required in order to allow monitoring of Federal acreage limitations, foreign investment restrictions, multiple filing in the simultaneous oil and gas leasing program and the existence of agency relationships. The increase in the size of the program has rendered impossible the manual monitoring of these qualification documents. In the future, all lease applicants and assignees will be required to certify their compliance with statutory requirements on the lease or assignment application, subject to the criminal sanctions of 18 U.S.C. 1001 regarding fraudulent statements. Selective audits will be performed to verify compliance. Elimination of the requirement to submit these qualifications documents will save the public an estimated $20 million annually.

The Department of the Interior has determined that it is in the public interest to discontinue processing the thousands of qualifications documents presently on file. Compliance with the statute and regulations has been certified on all pending lease applications and assignments on the appropriate forms. Selective audits will verify compliance. Pending applications and offers for which there are no junior conflicting applications or offers pending on this date will not be subject to rejection for any failure to comply with the rules in Subpart 3102 of Title 43 of the Code of Federal Regulations in effect at the time of filing. All such failures are waived by promulgation of this rulemaking with respect to all requirements altered or eliminated by the rulemaking.

The Department of the Interior has determined that the public interest demands that the measures contained in this interim final rulemaking must be implemented immediately so as to speed the development of domestic oil and gas resources and to ease the regulatory burden on the public. Accordingly this rulemaking is being issued as an interim final rulemaking upon its publication. The changes made by this interim final rulemaking will also be published as part of the rewrite of Group 3100 of Title 43 of the Code of Federal Regulations that will be published in the near future. The public is requested to comment on the provisions of this rulemaking and these comments will be studied and considered at the time of decisionmaking on the issuance of a final rulemaking on Group 3100 of Title 43 of the Code of Federal Regulations.

Further, the Department of the Interior has determined that it is in the public interest to make this interim final rulemaking effective upon publication. The public will be benefitted by the reduction in paperwork burden immediately by making the rulemaking effective upon publication.

The principal author of this interim final rulemaking is Charles Weller, Division of Oil and Gas, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small

entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in this amendment to 43 CFR Part 3100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0034 and 0075.

Under the authority of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), Part 3100, Group 3110, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 11, 1982.

PART 3100—OIL AND GAS LEASING

1. Subpart 3102 is revised to read:

Subpart 3102—Qualifications of Lessees

Sec.

3102.1 Who may hold leases.
3102.2 Aliens.
3102.3 Minors.
3102.4 Signatures.
3102.5 Evidence.

Authority: Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.).

Subpart 3102—Qualifications of Lessees

§ 3102.1 Who may hold leases.

Leases may be acquired and held only by citizens of the United States; associations (including partnerships) of such citizens; corporations organized under the laws of the United States or of any State or territory thereof; and municipalities.

§ 3102.2 Aliens.

Leases or interests therein may be acquired and held by aliens only through stock ownership, holding or control; and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. (A list of those countries which have been determined to provide "similar or like" privileges is available from any Bureau of Land Management office).

§ 3102.3 Minors.

Leases shall not be acquired or held by an individual considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf.

§ 3102.4 Signatures.

All applications, offers and requests for approval of an assignment shall be holographically (manually) signed in ink by the potential lessee or by anyone authorized to sign on behalf of the potential lessee. Documents signed by anyone other than the potential lessee shall be rendered in a manner to reveal the name of the potential lessee, the name of the signatory and their relationship. (Example: John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith.) Machine or rubber stamped signatures shall not be used.

§ 3102.5 Evidence.

Submission of a lease application, offer or request for approval of an assignment constitutes certification of compliance with the regulations of this group and the Act. Compliance means that the potential lessee, all other parties who hold an interest (as defined in § 3100.0–5(a) of this title) in the application, offer, assignment or lease or all parties who hold or control more than 10 percent interest in a lessee which is a corporation or association are: (a) Citizens of the United States or qualified stockholders in a domestic corporation (see § 3102.2 of this title); (b) in compliance with the Federal acreage limitations (see §§ 3101.1–5 and 3101.2–4 of this title); (c) not minors (see § 3102.3 of this title); and (d) not participants in any agreement, scheme, plan or arrangement prohibited in relation to simultaneous oil and gas leasing (see § 3112.6–1(a) of this title). Anyone seeking to acquire, or anyone holding, a Federal oil or gas lease or interest therein, may be required to submit additional information to show compliance with the regulations of this group and the Act.

2. Section 3103.1–1 is revised to read:

§ 3103.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency. Remittances returned unpaid shall be assessed a $10 service charge. Applicants shall be barred from acquiring leases until the returned remittance is redeemed and the service charge paid.

3. Sections 3106.1 through 3106.1–3 are revised and §§ 3106.1–4 through 3106.1–6 are removed to read:

§ 3106.1 General.

§ 3106.1–1 What may be required.

Leases may be assigned as to all or part of the lease acreage and as to either a divided or undivided interest therein.

§ 3106.1–2 Qualifications.

Assignees shall comply with subpart 3102 of this title and post any bond which may be required.

§ 3106.1–3 Heirs and devisees.

If an offeror, applicant, assignee or lessee dies, his/her rights shall be transferred to the heirs, devisees, executor or administrator of the estate, as appropriate, upon the filing of a statement that all parties are qualified to hold a lease in accordance with subpart 3102 of this title.

§§ 3106.1–4—3106.1–6 [Removed]

§ 3106.2–1 [Amended]

4. Section 3106.2–1 is amended by removing the phrase "must be filed" after the figure "§ 3106.4" and replacing it with the phrase "of this title shall be filed within 90 days from the date of final execution."

5. Section 3106.2–2 is revised to read:

§ 3106.2–2 Forms.

(a) Assignments of record title or operating rights shall be filed in triplicate with the proper BLM office on a form approved by the Director or reproductions thereof. A separate instrument of assignment shall be used for each lease out of which an assignment is made.

(b) A single signed copy of all other instruments of transfer shall be sufficient.

PART 3110—NONCOMPETITIVE LEASES

§ 3112.2–2 [Amended]

6. Section 3112.2–2(a) is revised to read:

(a) Each filing shall be accompanied by a $75 filing fee.

* * * * *

7. Section 3112.2–3 is revised to read:

§ 3112.2–3 Qualifications.

Compliance with subpart 3102 of this title is required. The applicant shall set forth on the lease application, or on a separate accompanying sheet, the names of all other parties who hold an interest (as defined in § 3100.0–5(a) of this title) in the application, or the lease, if issued.

§ 3112.6–1 [Amended]

8. Section 3112.6–1(b) is revised to read:

* * * * *

(b) The application of any unqualified applicant shall be rejected.

PART 3130—OIL AND GAS LEASING—NATIONAL PETROLEUM RESERVE—ALASKA

9. Section 3132.4 is revised to read:

§ 3132.4 Qualifications.

Submission of a lease bid constitutes certification of compliance with the regulations of this part. Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein may be required to submit additional information to show compliance with the regulations of this part.

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