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FRIDAY, MAY 12, 1978

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for May are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

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

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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	CSC			CSC
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	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
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	HEW/PHS			HEW/PHS

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[3195-01]

Title 3—The President

PROCLAMATION 4570

Mother's Day, 1978

By the President of the United States of America

A Proclamation

Motherhood is a lifelong commitment.

It is a promise to share in fulfilling all the unique potential of a helpless newborn child, and to shape that person into an independent, responsible adult. For some, motherhood means guiding bright minds, strong bodies, and exquisite talents—maintaining a delicate balance between humanity and the special gifts of God. For others, motherhood means helping a weak body or an unawakened mind overcome burdens that may often seem too great to bear. For both, motherhood brings the privilege of seeing the tired world through fresh eyes and the satisfaction of knowing that one has met another's needs in a way no other could.

To the mothers of America, in recognition of their achievements in the art of raising a new generation of Americans and as an acknowledgment of all they have done to shape our national character, the Congress, by joint resolution of May 8, 1914 (38 Stat. 770; 36 U.S.C. 141), has set aside the second Sunday in May of each year as a day of special tribute.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby request that Sunday, May 14, 1978, be observed throughout our nation as Mother's Day. I ask all Americans to take this opportunity to express their personal gratitude to their own mothers and to thank all those women whose tireless devotion to their families has so enriched our nation.

I ask all public officials to display the flag of the United States on all government buildings and urge all Americans to display our flag at their homes or other suitable places on that day as a public expression of our love for the mothers of our country.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-13204 Filed 5-11-78; 12:17 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

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

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 1, Amdt. 12]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES AND TANGELOS GROWN IN FLORIDA

Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum diameter requirements on domestic shipments of Florida seedless grapefruit from 3 9/16 inches (size 48) to 3 5/16 inches (size 56). Specification of minimum size requirements for Florida grapefruit is necessary because of current and prospective supply and demand for the fruit, and to maintain orderly marketing conditions in the interest of producers and consumers.

DATES: The amendment is effective May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905; 42 FR 59367; 61853), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committee established under the marketing agreement and order, and upon other information, it is found that the regulation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Florida grapefruit. Less restrictive size requirements for such fruit are consistent with the character of much of the fruit available for fresh shipment.

(3) 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 amendment is based and the effective date necessary to effectuate the declared policy of the act; and this amendment relieves restrictions on the handling of seedless grapefruit.

Accordingly, it is found that the provisions of § 905.301 (42 FR 57947; 59367; 59955; 60918; 61590; 62470; 63635; 63881; 43 FR 2820; 5497; 10910; 17797) should be and hereby are amended by revising in Table I (applicable to domestic shipments of the specified fruit) the minimum size applicable to seedless grapefruit as follows:

§ 905.301 Orange, Grapefruit, Tangerine, and Tangelo Regulation 1.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, except pink	May 8 to Aug. 28, 1978	Improved No. 2	3 9/16
Do	Aug. 28 to Sept. 24, 1978	do	3 9/16
Seedless, pink	May 8 to Aug. 28, 1978	do	3 9/16
Do	Aug. 28 to Sept. 24, 1978	do	3 9/16
*	*	*	*

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

Dated: May 8, 1978.

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

[FR Doc. 78-12881 Filed 5-11-78; 8:45 am]

[3410-02]

[Lemon Reg. 145]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 14-20, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown

in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 9, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good, with larger sizes remaining strong.

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

§ 910.445 Lemon Regulation 145.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 14, 1978, through May 20, 1978, is established at 300,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: May 10, 1978.

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

[FR Doc. 78-13142 Filed 5-11-78; 8:45 a.m.]

[3410-02]

[Peach Reg. 1, Amdt. 1]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action extends by 7 days the period during which 1¾-inch Georgia peaches may be shipped. Such action is designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Industry Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of peaches, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 3, 1978, to consider crop and market conditions and other factors affecting the need for amending the current regulation, and recommended extending the period during which peaches at least 1¾ inches in diameter could be shipped through May 22, 1978. The committee reports that abnormally cold weather has delayed the normal size development of the peach crop, and as a result the earlier maturing varieties, which normally mature at smaller sizes than later maturing varieties, are not expected to meet the 1⅞-inch requirement which would become effective May 16, under the current regulation.

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 amendment is based and the effective date necessary to effectuate the declared policy of the act. This amendment relieves restrictions on the handling of peaches. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

§ 918.320 [Amended]

Paragraphs (a) (2) and (3) in § 918.320 Peach Regulation 1 (43 FR 18642), are hereby amended to read:

(a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) * * *

(2) During the period May 3 through May 22, 1978, are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(3) During the period May 23 through August 31, 1978, are smaller than 1⅞ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅞ inches in diameter.

* * * * *

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

Dated: May 8, 1978.

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

[FR Doc. 78-12960 Filed 5-11-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION [1]

PART 791—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, DEMONSTRATION, AND PRODUCTION LOAN GUARANTIES

Final Rule

AGENCY: Department of Energy.

ACTION: Final rule establishing new Part 791.

SUMMARY: These regulations promulgated today establish policies and procedures for loan guaranties by which lenders, as well as borrowers, may participate in accelerating the development and production of electric and hybrid vehicles under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. They are intended to assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development and production due to lack of adequate capital.

EFFECTIVE DATE: June 12, 1978.

[1] EDITORIAL NOTE: Chapter III will be renamed at a future date to reflect that it contains regulations administered by the Department of Energy.

FOR FURTHER INFORMATION CONTACT:

Anthony H. Ewing, U.S. Department of Energy, Office of Conservation and Solar Applications, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4747.

SUPPLEMENTARY INFORMATION: On April 19, 1977, the Energy Research and Development Administration (ERDA) issued proposed regulations concerned with enabling lenders to obtain Federal guaranties on loans to qualified borrowers for purposes related to the commercial development, demonstration, and production of electric and hybrid vehicles (42 FR 20831, April 22, 1977). These regulations were intended to provide for the implementation of section 10 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (Act) (Pub. L. 94-413, 15 U.S.C. 2501 et seq.).

Generally, the proposed regulations stated policies and procedures for loan guaranties which would enable lenders and qualified borrowers to participate in accelerating the development and production of electic and hybrid vehicles. The regulations provided for priorities, preferences, and criteria which ERDA intended to apply to the consideration of applications for, and approval or disapproval of, Federal guaranties on loans. Further, they established the types of information required to be developed by the borrower or lender, or both, and submitted to ERDA, in support of loan guaranty applications. The Department of Energy (DOE) became responsible for carrying out the functions of ERDA under the Act, pursuant to section 301 of the Department of Energy Organization Act (Pub. L. 95-91, 42 U.S.C. 7101).

Interested parties were invited to submit written comments on the proposed regulations. Six comments were received. The comments were thoughtful and well organized and full and careful consideration was given to all of them.

Two comments were rhetorical in nature and suggested no change in the regulations. Comments recommending changes in the definition of "electric vehicle" and "hybrid vehicle" were not incorporated because the definitions of these terms are established by the Act. Section 791.2(a) was revised as recommended in a comment to make the wording of the regulations consistent with the Act by substituting the words "qualified borrowers" for the words "private sector."

A new section was inserted as § 791.4 to delineate program management responsibilities. The former § 791.30, and the subsequent sections in Subpart C have been renumbered except for § 791.45. All references in this preamble to sections are to sections as renumbered.

Recommendations to delete § 791.7 (a), (d) and (e) were not incorporated. Section 791.7(a) is intended to recognize genuine interest and good faith on the part of applicants, most of whom will be small business concerns, and is not intended to provide advantage to bigger and better established businesses. By deleting § 791.7(d), the Federal Government's right to the results of the project would have been forfeited, and this was determined not to be in the best interest of the Government. Section 791.7(e) gives small business concerns special consideration as required by the Act.

As suggested in a comment, § 791.37(b)(1) was changed to delete the availability of funds as the governing criterion for payment of the guarantied amount of unpaid principal and accrued interest in the event of default. As revised, the lender will be paid "in full or on a proportionate basis, in accordance with the guaranty agreement." This revision avoids any ambiguity as to the coverage of loan guaranties by the full faith and credit of the United States.

A recommendation to change § 791.37(b)(2) to require the payment of interest, in the event of default, at the same rate in effect for the loan prior to default was not incorporated because the payment of such rate of interest would be inconsistent with rates paid on general obligations of the United States.

Section 791.22(c) was revised as recommended in a comment to read "[i]n carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant, licensed to practice by the regulatory authority of a State or other political subdivision of the United States." This reflects the Comptroller General's position concerning the conduct of audits of financial representations.

The Federal Financing Bank, in addition to other qualified lenders, is eligible to act as a primary lender for the loan guaranty transactions. In those cases where the Federal Financing Bank is used, loan servicing arrangements, satisfactory to both the Department of the Treasury and DOE, will be developed.

The regulations are adopted as proposed except for the changes noted above and other changes made to improve clarity. The regulations will become effective on or before June 12, 1978. However, the Department of the Interior and Related Agencies Appropriation Act for Fiscal Year 1978 (Pub. L. 95-74) requires that prior to implementation of certain loan guaranty programs, including this one, a specific provision permitting such implementation be provided. Accordingly, DOE will not accept applications for loan guaranties until such specific provision is enacted. At that time, public notification will be issued in an appropriate manner and the program will be implemented.

Further, on February 25, 1978, the President signed into law the DOE Act of 1978—Civilian Applications (Pub. L. 95-238), also known as the ERDA Authorization Act, section 603 of which contains amendments to the Act that would affect certain aspects of these regulations. Therefore, it is anticipated that amendments to these regulations will be forthcoming in the near future.

(Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 93-413; Energy Reorganization Act of 1974, Pub. L. 93-438; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, Chapter III of Title 10 of the Code of Federal Regulations is amended by adding new Part 791 as set forth below.

Issued in Washington, D.C., May 9, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration, Department of Energy.

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791.40 Treatment of payments.
791.41 Assignment and incontestability.
791.42 Survival of guaranty agreement.
791.43 Other Federal assistance.
791.44 Patent and proprietary rights.
791.45 Appeals.

AUTHORITY: Sec. 10, Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 94-413; sec. 105(a) of the Energy Reorganization Act of 1974, Pub. L. 93-438; sec. 301(a) Department of Energy Organization Act, Pub. L. 95-91.

Subpart A—General Provisions

§ 791.1 Purpose.

The purpose of this regulation is to set forth policies and procedures under which lenders may obtain a Federal guaranty on loans to qualified borrowers for purposes related to the research, development, demonstration, and commercial production of electric or hybrid vehicles in an environmentally acceptable manner.

§ 791.2 Objectives.

The objectives of the Electric and Hybrid Vehicle Loan Guaranty Program are:

(a) To encourage and assist qualified borrowers to accelerate development, employing environmentally acceptable processes, of electric and hybrid vehicles for introduction into the Nation's transportation fleet;

(b) To assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development due to lack of adequate capital by enabling the Secretary of Energy to effectively reduce the lender's financial risk associated with new electric or hybrid vehicle technology; and

(c) To develop normal borrower-lender relationships which will, in time, encourage the flow of credit so as to assist in the continued development and production of electric and hybrid vehicles without the need for Federal guaranties.

§ 791.3 Definitions.

For the purposes of this regulation:

(a) "Aggregate net cost" means all project costs, less those costs excluded in paragraph (b) of § 791.22, "Project cost illustrations", and less any potential tax savings from investment tax credits and other tax benefits through the first year of operations;

(b) "Default" means the nonpayment of principal, interest, or user charge (if the user charge is passed to the borrower) by the borrower within the time period allowed in § 791.31, "Loan servicing by lender";

(c) "Electric vehicle" means a vehicle, which is powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and which may include a nonelectrical source of power designed to charge batteries and components thereof;

(d) "Hybrid vehicle" means a vehicle, propelled by a combination of an electric motor and an internal combustion engine or other power source and components thereof;

(e) "Lender" means any individual, partnership, corporation, or other legal entity formed for the purpose of or engaged in the business of lending money and having the capability to have the loan serviced as required in § 791.31, "Loan servicing by lender". Examples of lenders may include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, institutional investors, venture capital investment companies, trusts, or entities designated as trustees acting on behalf of bondholders or other lenders;

(f) "Production" means the conversion of raw materials into products and components or both through a series of manufacturing processes. Production is also characterized by the investment of capital for manufacturing equipment and facilities or both which will be recovered over time from planned product sales, and by the existence of provisions for product distribution and, when applicable, for product servicing. It includes the functions of production engineering, production control, quality assurance, and determination of resource requirements. It does not include product improvement of existing models, unless contemplated production is in commercial quantities, nor production of demonstration models only;

(g) "Program" means the Electric and Hybrid Vehicle Loan Guaranty Program;

(h) "Prototype" means a model suitable for evaluation of design, performance, and production potential of electric or hybrid vehicle technology and is capable of performing research and development or production of electric or hybrid vehicles or components thereof;

(i) "Qualified borrower" means any individual, partnership, corporation, or other legal entity having authority to enter into a loan agreement which, as determined by the Secretary, has presented satisfactory evidence of an interest in electric or hybrid vehicles or components thereof in an acceptable manner. A borrower seeking a guaranty must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Secretary determines that it satisfactorily meets all the requirements of Section 2 of the Shipping Act of 1916 (46 U.S.C. 802), for determining such citizenship, except that the provisions in Subsection (a) of such Section 2 concerning (1) the citizenship of officers or directors of a corporation, and (2) the equity interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable. The Secretary, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association in which controlling interest is owned by citizens of countries which are participants in the International Energy Agreement;

(j) "Research and development" means theoretical analysis, exploration, or experimentation directed toward increasing knowledge and understanding in those fields of the physical, engineering, and environmental sciences as they relate to electric or hybrid vehicles, or electric or hybrid vehicle component technology, including the experimental production and testing of models, devices, equipment, materials, and processes;

(k) "Secretary" means the Secretary of Energy; and

(l) "Small business concern" means an entity which satisfies the criteria established in 13 CFR 121.310, which generally defines a small business as one which is independently owned and operated; is not dominant in its field; and meets applicable employment and sales standards.

§ 791.4 Program management.

Program management responsibility is vested in the Chief, Demonstration and Incentives Branch, Division of Transportation Energy Conservation, Department of Energy, Washington, D.C. 20545. Specific questions regarding this regulation or electric and hybrid vehicle loan guaranties should be directed to the program manager.

§ 791.5 Eligible loans.

(a) The Secretary may enter into agreements to guaranty lenders against the loss of principal and accrued interest on loans made by such lenders to qualified borrowers. Any such agreements shall be made subject to the application of priorities and preferential considerations for guaranties as set forth in § 791.6, "Priorities", and § 791.7, "Preferential consideration", and also subject to the criteria in § 791.9, "Loan guaranty criteria". Such guaranty agreements may be entered into only for the purposes of:

(1) Construction or purchase of capital equipment related to research, development, and production of electric or hybrid vehicles or components thereof;

(2) Initial operating expenses associated with the development and production of electric or hybrid vehicles or components thereof;

(3) Prototype development for electric or hybrid vehicles or components thereof; or

(4) Research and development related to electric or hybrid vehicle technology.

§ 791.6 Priorities.

In complying with the objectives of the Electric and Hybrid Vehicle Loan

Guaranty Program, the Secretary will invoke priorities for loan guaranty applications in the following order:

(a) First priority consideration will be given to those applications which directly relate to projects which will result in the early commercial production of electric or hybrid vehicles or components thereof.

(b) Second priority consideration will be given to those applications which are related to projects for the development of prototype electric or hybrid vehicles or components thereof.

(c) Third priority consideration will be given to those applications related to projects for research and development activities involving electric or hybrid vehicle technology.

§ 791.7 Preferential consideration.

Within each priority category described above, the Secretary shall give preferential consideration to qualified applicants in the following order:

(a) The borrower provides greater than 10 percent of the aggregate net costs;

(b) The lender is providing a portion of the project debt for which a guaranty is not requested, i.e., the lender does not require that 100 percent of the loan be guarantied;

(c) The Federal government will receive royalty payments or the planned project is based upon technology previously developed under federally sponsored research and development;

(d) The Federal government will receive the rights to the results of the project; or

(e) The applicant is a small business concern as defined in paragraph (1) of § 791.3, "Definitions".

§ 791.8 Ineligibility.

Applicants will not be considered for a loan guaranty if any of the following conditions prevail:

(a) A loan application meets the lender's standards without a Federal guaranty;

(b) An applicant is not a citizen or a national of the United States as defined in paragraph (i) of § 791.3, "Definitions";

(c) The project will not be performed in the United States, its territories or possessions; or on property owned or leased by the United States, its territories or possessions;

(d) The source of funds is derived directly or indirectly from an instrumentality which is financed mainly by borrowings in the tax exempt securities market; or

(e) The borrower is a public body whose borrowings associated with the project are tax exempt.

§ 791.9 Loan guaranty criteria.

In addition to meeting the requirements for eligibility set forth in § 791.5, "Eligible loans", a loan guaranty may be made only if the following conditions are met as determined by the Secretary:

(a) When proposals addressing only research and development efforts are submitted, the application is subjected to detailed review based on the policy for unsolicited research proposals in effect at DOE at the time the application is received. This review, which is to be completed prior to any consideration under this loan guaranty program, will consider, among other factors, the soundness of the proposed research effort, the plan by which it will be accomplished, the technical competence of personnel conducting the research, and a determination that the research is in fact original and does not duplicate existing projects;

(b) The loan is to be made only to a qualified borrower as defined in paragraph (i) of § 791.3, "Definitions";

(c) The loan is made by a lender as defined in paragraph (e) of § 791.3, "Definitions";

(d) Except as provided in § 791.43, "Other Federal assistance", the maximum amount of any guaranty shall not exceed 90 percent of the aggregate net cost of the project for which the loan is made. However, there is no prohibition against the guaranty being equal to 100 percent of the loan to be made by the lender;

(e) The lender has set forth reasons why the loan would not be made to the borrower without a Federal loan guaranty;

(f) There is satisfactory evidence that the lender is competent to administer loan terms and conditions, and is competent to administer the terms and conditions of the guaranty agreement that are applicable to the lender;

(g) When the maximum permissible guaranty is requested as stated in paragraph (d) of this section, the lender has set forth the reasons for being unwilling to undertake a loan having less than the maximum permissible guaranty;

(h) The loan bears interest at a rate not to exceed an annual percentage, on the principal obligation outstanding, as determined by the Secretary to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar government obligations of comparable risk;

(i) The terms of such loans require full repayment over a period not to exceed 15 years, or 75 percent of the expected average useful economic life of the major physical assets, or other collateral securing such loans, whichever is less;

(j) The amount of the loan, when combined with funds available to the qualified borrower from other sources, will be sufficient to carry out the project for which the loan is made;

(k) There is reasonable assurance of payment of interest and the guarantied portion of the loan by the qualified borrower and the Secretary finds that sufficient collateral has been pledged by the borrower;

(l) The amount of the guaranty on any loan shall not exceed $3,000,000 principal unless the Secretary finds that a higher guaranty level for specific loan guaranties is necessary in order to carry out the purposes of Pub. L. 94-413;

(m) The total principal amount of guaranties made under this regulation, for any combination of outstanding loans for separate projects, to any single qualified borrower, may not exceed $6,000,000;

(n) The project is to be performed in the United States, its territories or possessions, or on property owned or leased by the United States, its territories or possessions;

(o) The project is believed to be technically feasible, uses environmentally acceptable processes and, if applicable, results in environmentally acceptable products;

(p) There is sufficient evidence that the borrower will initiate and complete the project in a timely, efficient, and acceptable manner and the borrower agrees that no material change of project ownership will occur without prior written consent of the Secretary;

(q) The terms and conditions set forth in the loan agreement are acceptable to the Secretary;

(r) The borrower and any lender having a nonguarantied loan with the borrower shall agree in writing that:

(1) The terms and conditions set forth in a nonguarantied loan agreement relating to the project shall be acceptable to the Secretary; and

(2) The guarantied loan shall not be subordinate to the nonguarantied loan and shall be in first lien position regarding all assets acquired or produced with the proceeds of the guarantied loan;

(s) No loan shall be guarantied by the Secretary under this regulation unless the Secretry finds that no other reasonable means of financing or refinancing is realistically available to the applicant;

(t) The borrower must show evidence of valid application to and rejection by lenders, or evidence of unreasonable terms proposed by lender(s); and

(u) The aggregate amount of guaranties outstanding at any one time under this regulation shall not exceed $60,000,000.

§ 791.10 Interest assistance.

With respect to any loan guarantied pursuant to this regulation, the Secretary may enter into an interest assistance contract with the borrower to pay the lender, on behalf of the borrower, the interest charges which

become due and payable on the unpaid balance of any such loan if the Secretary finds:

(a) That the borrower is unable to meet interest payments, and that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such interest will be less than that which would result in the event of a default;

(b) The amount of such interest charges which the Secretary is authorized to pay is no greater than the amount of interest which the borrower is obligated to pay under the loan agreement; and

(c) The borrower has agreed to repayment of interest charges paid by the Federal Government, to the payment of any deferred user charge as provided in §791.32, "User charge", and to the payment of interest on such principal, interest, and deferred user charges, at an annual rate to be set by the Secretary and as stated in the interest assistance contract.

§791.11 Default payment.

In the event of default by a borrower, as defined in paragraph (b) of §791.3, "Definitions", with respect to any loan guarantied pursuant to this regulation, and except as provided in §791.10, "Interest assistance", and paragraph (b) of §791.31, "Loan servicing by lender", the Secretary will, as provided in §791.37, "Default and demand", make payment of principal and accrued interest in accordance with the terms and conditions of the guaranty contract. Thereupon, the Attorney General of the United States shall take such action as deemed necessary to recover the amounts of such payments including any obligations under paragraph (c) of §791.10, "Interest assistance", from such assets of the defaulting borrower as are associated with the project or as specified in the guaranty agreement, including patent and proprietary rights resulting from the project, as provided in §791.44, "Patent and proprietary rights", or from any other surety, security, collateral, guaranty, asset, or bond included in the terms of the guaranty. Any recovery achieved by the Attorney General, which exceeds the cost of recovery, amounts included in paragraph (c) of §791.10, "Interest assistance", and the amount paid to the lender including principal and interest on any nonguarantied portion, in accordance with the guaranty agreement of interest assistance contract, shall be returned to the borrower, unless the guaranty agreement provides otherwise.

§791.12 Period of guaranties and interest assistance.

No loan guaranty agreements will be made or interest assistance contracts entered into after September 17, 1981. Guaranty agreements in effect at that time will continue until the term of the loan is completed or until the guarantied portion of the loan is repaid in full with accrued interest, whichever occurs first. Interest assistance contracts in effect on that date will remain in effect thereafter until the contract term expires or the contract is terminated in accordance with its provisions.

Subpart B—Applications

§791.20 Filing.

Loan guaranty applications shall be filed in accordance with the following procedures:

(a) An application, in authorized format for a loan guaranty, must be signed by the prospective borrower and lender, or their authorized representatives, and jointly submitted to the Secretary.

(b) Prior to receipt of a loan guaranty application, the Secretary is authorized to conduct preliminary discussions with prospective borrowers or lenders, or both, who wish to obtain information or advice regarding eligibility for a loan guaranty, and requirements for compliance with filing instructions, including the submission of supporting information as illustrated in §791.21, "Supporting information".

(c) Subject to the requirements of law and this regulation, trade secrets, commercial information, financial information, and other data which the borrower or lender, or both, makes available to DOE during preliminary discussion, or at any other time during the project, and for which they claim privilege or confidentiality, will be so treated by DOE. Information deemed to fall into one of the foregoing categories shall be clearly marked or otherwise appropriately identified to DOE by the borrower or lender, or both.

§791.21 Supporting information.

The applicant shall provide information in support of the application such as prescribed by the Secretary.

(a) The following items illustrate the range of information which may be required, dependent upon the type, complexity, and cost of the project:

(1) Full description of the scope, nature, extent, and location of the proposed project;

(2) A description of the project's technical and economic feasibility;

(3) A description of the borrower's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions;

(4) Evidence of the borrower's previous and current interest in electric or hybrid vehicles, or related technologies;

(5) Evidence supporting the borrower's ability to complete the project;

(6) A description of the borrower's management concept and business plan, or plan of operations to be employed in carrying out the project;

(7) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the project;

(8) A description of salaries and other financial remuneration, including profit sharing and stock options, to be paid to officers and employees of the borrower who are, or will be, directly associated with the project;

(9) Evidence showing that the amount of the loan, together with equity or other financing, will be sufficient to carry out and complete the project;

(10) A detailed, budget-type cash flow breakdown of both the estimated cost of the project and the amount to be borrowed;

(11) The past financial history of the firm, including financial statements and projections as to the firm's future financial status;

(12) A listing of assets associated or to be associated with the project, including appropriate data as to the value and useful life of any physical assets; financial statements of any party or firm that will guaranty the repayment of indebtedness; and a description including the value of any other associated security;

(13) The borrower's plan of interest charge payments and principal repayment;

(14) The borrower's assumptions regarding marketability of the project's results or product;

(15) The original aggregate amount of any previous or currently outstanding guaranty commitments or guarantied loans, or both, made to the borrower under the provisions of this regulation;

(16) A description of other Federal financial assistance (e.g., direct loans, guarantied loans, grants, contracts) available or expected to be made available to the borrower in connection with the project;

(17) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, factoring, etc.) together with evidence of a commitment from these sources, a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment;

(18) A written affirmation by the lender supporting the necessity for a Federal loan guaranty;

(19) The lender's written assessment of all aspects of the borrower's loan

application, in sufficient detail as would be completed by any prudent lender considering a loan without a guaranty, together with copies of investigations from credit bureaus, references, bank inquiries, and professional organizations;

(20) Written assurance from guaranteed and, when appropriate to the project, nonguarantied lenders that the loan amounts, as well as terms and conditions imposed by such lenders, will not be altered in any significant respect without prior approval of the Secretary;

(21) The amount and maturity of the loan, and the percentage of the aggregate net cost to be guarantied;

(22) Interest rate to be charged by the lender;

(23) A copy of the loan agreement executed by the borrower and lender;

(24) Copies of all applications, when filed, and approvals when issued by Federal, State, and local government agencies, for permits and authorizations to conduct operations associated with the project;

(25) A description of the processes and methods the borrower plans to utilize so as to comply with acceptable environmental considerations; and

(26) A written affirmation by the borrower that he will adhere to Equal Employment Opportunity policies throughout the life of the project.

(b) In addition to supporting information illustrated in paragraph (a) of this section, the Secretary may independently obtain, or may require the lender to include with the guaranty application, information regarding the lender as deemed necessary by the Secretary, including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions;

(2) Copies of investigations obtained from credit bureaus, references, inquiries, and professional associations;

(3) Information covering the management experience of each officer or key person in the lender's organization who is or will be associated with the loan;

(4) A description of the management concept to be employed by the lender in administration of the loan; and

(5) When appropriate to the project, evidence of the lender's experience in surveying the financial aspects of new technology projects.

(c) The Secretary shall review the application and other relevant information and shall be responsible for:

(1) Determining whether the application is in compliance with all applicable provisions of this regulation;

(2) Assessing and evaluating the financial, technical, environmental, management, marketing, and legal aspects of the project; and

(3) Approving or disapproving of the application.

(d) The Secretary will provide the borrower and lender with a written statement setting forth the basis for the Secretary's disapproval of an application.

§ 791.22 Project cost illustrations.

The cost elements set forth in paragraphs (a) and (b) of this section are only for the purpose of illustrating the manner by which the estimated aggregate net cost of the project, before subtracting tax savings as described in paragraph (a) of § 791.3, "Definitions", may be determined. It is expected that costs will be accumulated in accordance with generally accepted accounting principles and practices which are consistently applied.

(a) Except as set forth in paragraph (b) of this section, reasonable and customary costs paid by the borrower that are directly connected to the project are generally permitted in computing the estimated aggregate net cost. These costs include, but are not limited to:

(1) Costs incurred by the borrower prior to approval of the guaranty agreement that are directly connected with the project;

(2) Professional services and fees necessary to obtain licenses and permits and to prepare environmental reports and data;

(3) Financial and legal services costs;

(4) Costs to provide safety and environmental protection equipment, facilities, and services;

(5) Fees for royalties and licences negotiated through "arms length" transactions;

(6) Bond financing costs and trustee fees;

(7) Any current or fixed assets directly related to the project including cash reserves and other forms of working capital;

(8) Taxes to be paid to Federal, State, and local government agencies, and other taxing authorities;

(9) Research and development necessary to complete the project;

(10) Employees' salaries and wages, consultant fees, and other outside assistance;

(11) Travel and transportation costs;

(12) Necessary and appropriate insurance and bonds of all types;

(13) Interest costs and other normal charges affixed by the lender;

(14) Interest payments to other lenders;

(15) Other normal operating expenses, such as production costs, building costs, plant equipment, and machinery; and

(16) Costs to comply with terms and conditions specified in the guaranty agreement or required by regulations and issuances by Federal, State, and local government agencies.

(b) Costs which are not considered as allowable project costs include, but are not limited to, the following:

(1) Company organizational expenses;

(2) Parent corporation general and administrative expenses and other parent corporation assessments;

(3) Dividends and profit sharing to stockholders, officers, and employees;

(4) Goodwill, franchises, or trade or brand name costs;

(5) Except as provided in § 791.32, "User charge", fees and commissions charged to the borrower for obtaining Federal assistance;

(6) Finder's fees;

(7) Expenses not paid or incurred by the borrower; and

(8) Costs that are excessive or are not directly required to carry out the project as determined by the Secretary.

(c) The Secretary may initiate a review of any or all cost elements included by the borrower in the estimated aggregate net cost. The borrower shall make available records and other data necessary to permit the Secretary to carry out such review. In carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent certified public accountant, or by an independent public accounting, licensed to practice by the regulatory authority of a State or other political subdivision of the United States.

(d) When costs incurred prior to the approval of the guaranty agreement, as provided in paragraph (a)(1), of this section, are included in the estimated aggregate net cost, and when requested to do so by the Secretary, the borrower will make available to auditors selected by the Secretary, financial and other records necessary to complete and audit of such costs.

§ 791.23 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973, Pub. L. 92-234, may require purchase by the borrower of flood insurance as a condition of receiving a guaranty on loans for acquisition of real estate or construction purposes in an identified flood plain area having special flood hazards. Questions emanating from borrowers or lenders regarding compliance with provisions of the Flood Disaster Protection Act and guidelines should be referred to the Department of Housing and Urban Development's Federal Insurance Administration. When the purchase of flood insurance is required, such costs can be included by the borrower in the estimated aggregate net cost.

Subpart C—Closing and Servicing

§ 791.30 Closing.

The major activities leading to the closing of the guaranty agreement include the following:

(a) When an application for a loan guaranty has been approved by the Secretary, the Secretary will so notify the borrower and the lender and provide them with a copy of the approved guaranty agreement.

(b) A preclosing conference will be arranged by the Secretary, if the borrower or lender, or both so request, to discuss the terms and conditions contained in the guaranty agreement.

(c) Requests by the borrower or lender, or both for modification of the terms and conditions set forth in the guaranty agreement shall be submitted to the Secretary, supported by such documentation and facts as would justify the requests.

(d) Immediately after a determination has been made on requested modifications and after agreement to terms and conditions has been reached, the Secretary shall arrange with the borrower and the lender for the preparation and review of necessary documents, and agree upon a date for execution of the guaranty agreement and payment of the user charge. In accordance with § 791.32, "User charge", payments shall be made at the time each disbursement is made and on the anniversary date of closing, or at other intervals to be determined by the Secretary.

§ 791.32 Loan servicing by lender.

Loan guaranty agreements approved in accordance with this regulation shall provide that:

(a) The lender shall exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be exercised by a prudent lender in dealing with a loan without guaranty.

(b) The loan agreement shall provide a period of grace of sixty days for the making of any payment of principal or interest. The lender shall not grant to the borrower any further extension of time over and above the specified period of grace for the making of any payment in whole or in part under the loan agreement without the prior written consent of the Secretary. This consent will be readily granted and it will be the policy of the Secretary to extend the full support of DOE to lenders and borrowers who earnestly attempt to rectify default situations and salvage worthwhile projects. Should such attempts fail, the lender retains the option to call default. However, where remedial actions are successful, the lender's right to call default ceases when payments become current.

(c) The lender shall notify the Secretary in writing without delay;

(1) That the first disbursement is ready to be made, together with evidence from the borrower that the project has commenced or is about to commence;

(2) The amount and date of each subsequent disbursement under the loan;

(3) Of any nonpayment by the borrower of principal or interest as required by the loan agreement, if such nonpayment is not rectified within the grace period, together with evidence of appropriate notifications made by the lender to the borrower;

(4) Of any failure, known to the lender, by an intended source of capital to honor its commitment;

(5) Of any failure by the borrower, known to the lender, to comply with material terms and conditions as set forth in the loan agreement or guaranty agreement; or

(6) When the lender has reason to believe that the borrower may not be able to meet any future scheduled payment of principal or interest.

(d) The lender will not release to the borrower any disbursements without the written authorization of the Secretary.

(e) The lender will not withhold from the borrower any authorized disbursements without the written authorization of the Secretary.

(f) If the loan agreement so provides, the guaranty agreement shall permit the borrower to defer payments of principal until such time that income from the project is sufficient to meet this obligation.

(g) Lenders will pass on to the Secretary periodic reports from the borrower on the status and condition of the loan guarantied under this regulation. The Secretary will prescribe the frequency, format, and content of such statements. However, a report on each loan guaranty agreement entered into under this regulation shall, as a minimum, be submitted to the Secretary annually. The initial report will be submitted 60 days after the borrower's year-end closing. Reports will be furnished to the Secretary until such time as the guarantied portion of the loan or interest assistance is repaid.

(h) The lender will perfect and maintain all necessary first liens on assets associated with or pledged to secure the loan.

§ 791.32 User charge.

User charges imposed on the guarantied portion of the loan are computed at a rate of one percent per annum on the estimated outstanding balance. Payments of the user charge will be made by the lender at the time each disbursement is made and annually on the anniversary date of closing, or at other intervals to be determined by the Secretary. The user charge will be collected from the lender and used for the purposes of defraying the cost of administration and possible Federal loss associated with the program. The user charge may be passed from the lender to the borrower, and in such instances, may be included in the aggregate net cost. If interest assistance is in effect, payments of this charge, if passed from the lender to the borrower, may be deferred for the term of the interest assistance contract.

§ 791.33 Project monitoring.

The guaranty agreement shall provide that authorized employees and representatives of DOE shall, with the Secretary's approval, have access to the project site. The lender and the borrower, to the extent lawful and within their control, will assure availability of information related to the project as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with the environmental protection requirements, and other matters pertinent to the guaranty.

§ 791.34 Loan disbursements by lender.

Unless otherwise provided in the guaranty agreement, the lender shall not make any disbursement on the loan until:

(a) Notification requirements as set forth in § 791.31, "Loan servicing by lender", have been accomplished; and

(b) Satisfactory documentary evidence, as provided in § 791.35, "Satisfactory documentary evidence", has been received.

§ 791.35 Satisfactory documentary evidence.

The borrower shall furnish to DOE, through the lender, a written statement in support of each request by the borrower for loan disbursements setting forth, in such detail as the lender or Secretary may require, the purposes for which disbursement is requested and an attestation that such disbursements will be used only for such purposes. At the time of the first request for disbursement, the borrower will also attest, in writing, that all capital from all sources, other than those guarantied by the Secretary, has been received. Signature on the requesting document shall be made by a person authorized to order the expenditure of the borrower's funds.

§ 791.36 Withdrawal of guaranty.

The Secretary shall not authorize disbursements pursuant to any guaranty agreement and shall notify the borrower and the lender of the withholding of disbursements if he finds that any of the following conditions exists:

(a) Initiation of activity on the project has not occurred within the period of time set forth in the guaranty agreement;

(b) There is failure by the borrower to acquire capital from intended sources, and the borrower is unable to acquire alternate sources within a rea-

sonable time as may be approved by the Secretary;

(c) The borrower has failed to comply with any material term or condition set forth in the guaranty or loan agreement, in which case the Secretary shall notify the borrower and the lender that the guaranty shall be reduced to the amount that has been disbursed by the lender as of the date of the notice. Disbursements made by the lender after such notification is received will not be covered by a guaranty; or

(d) The lender has failed to comply with any material term or condition set forth in the guaranty or loan agreement. Notice of the Secretary's finding that any material term has not been complied with shall be served by the Secretary upon the borrower and the lender. Following notification, the borrower will be allowed reasonable time to acquire a substitute lender that is capable of complying with the provisions in this regulation. If the borrower obtains a substitute lender satisfactory to the Secretary, a new guaranty agreement will be negotiated. Upon issuance of the new guaranty to the substitute lender, the original lender shall be reimbursed by the borrower for unpaid principal and accrued interest. In any event, excluding fraud, misrepresentation, or gross negligence, the first lender shall be reimbursed for unpaid principal and accrued interest.

§ 791.37 Default and demand.

If the borrower defaults in making payment of principal, interest, or user charge (if the user charge is passed to the borrower), and the lender calls the loan and has complied with the requirements placed on it as set forth in § 791.31, "Loan servicing by lender", and § 791.34, "Loan disbursements by lender", the lender may make demand in writing upon the Secretary for payment pursuant to the guaranty, subject to the conditions described in paragraphs (a), (b), and (c) of this section.

(a) The Secretary shall, pursuant to the provisions of § 791.10, "Interest assistance", determine whether an interest assistance contract shall be executed. In the event that interest assistance is not warranted, the Secretary shall so notify the borrower and the lender. The lender shall make available without delay such documents and certifications, as the Secretary may reasonably require, evidencing the lender's compliance with notification provisions of the guaranty agreement.

(b) Upon default by the borrower and notification by the lender:

(1) The Secretary shall pay to the lender in full or on a proportionate basis, in accordance with the guaranty agreement, the guarantied amount of unpaid principal and accrued interest outstanding at the date of demand by the lender. Such payment will normally be made within sixty days; and

(2) During the period beginning from the date of demand and until payment is made by the Secretary, interest payable by the United States will accrue on the guarantied debt at a rate to be determined by the Secretary.

(c) The lender shall, concurrently with payment in full of all amounts guarantied by the United States, assign to the United States and transfer and deliver to the Secretary the loan documents, together with all collateral documents evidencing any and all security for any guaranties of the loan then held by the lender as set forth in the loan or guaranty agreement.

§ 791.38 Security with respect to borrower's assets.

Each loan guarantied under this regulation will be secured by liens or assignments of rights in assets associated with the project, or such other security specified in the guaranty agreement as may be reasonably required to protect the interests of the United States. Upon default by the borrower, as set forth in § 791.11, "Default payment", the Attorney General shall seek recovery from the assets that are associated with the project or specified in the guaranty agreement.

§ 791.39 Preservation of collateral.

Upon default by the borrower, the holder of collateral associated with the project shall take such actions as the Secretary may reasonably require to provide for the care, preservation, and maintenance of such collateral so as to achieve maximum recovery upon liquidation of collateral, security, and guaranties for the loan. Except as provided in § 791.37, "Default and demand", and § 791.41, "Assignment and incontestability", the lender shall not waive or relinquish, without the consent of the Secretary, any collateral or guaranty for the loan to which the Government would be subrogated upon payment under the guaranty agreement to the lender.

§ 791.40 Treatment of payments.

When the lender holds a guarantied and nonguarantied portion of a loan, payments of principal made by the borrower in accordance with the loan agreement shall be applied by the lender to reduce the guarantied and nonguarantied portions of the loan on a basis that reflects the proportions which the guarantied and nonguarantied portions bear to the total loan.

§ 791.41 Assignment and incontestability.

Except as may be required by law, the lender may assign to another lender rights and obligations under the loan or guaranty agreement only with the prior written consent of the Secretary or as follows:

(a) The lender may provide other lenders with participating shares in the loan without the prior consent of the Secretary. Written notice shall be given by the lender to the Secretary when participating shares are so provided. However, the original lender shall continue to be responsible for and perform the provisions of the guaranty agreement pertaining to the lender, unless the Secretary approves a substitute lender; and

(b) The guaranty agreement shall be conclusive evidence that the guaranty and the underlying loan are in compliance with the provisions of this regulation, and that such loan has been approved and is legal as to principal, interest, and other material loan terms. Such a guaranty shall be valid and incontestable by the Government, except for fraud or misrepresentation by the holder of the obligation.

§ 791.42 Survival of guaranty agreement.

The guaranty agreement shall be binding upon the lender, the borrower, the Secretary, and upon their successors and assignees. No delay or failure of the Secretary in the exercise of any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof; and no action taken or omitted by the Secretary shall be deemed a waiver of any such right or remedy.

§ 791.43 Other Federal assistance.

Nothing in this regulation shall be interpreted to deny or limit the borrower's right to seek and obtain other Federal financial assistance (e.g., contracts, grants, direct loans or guarantied loans) providing:

(a) The total amount of Federal financial assistance, including guaranties made under this regulation, obtained by the borrower for the project, shall not exceed 90 percent of the estimated aggregate net cost of the project to be undertaken by the borrower; and

(b) After closing of the loan guaranty agreement, the borrower will not undertake any work in connection with the project, by contract or grant, for a Federal agency without the Secretary's written finding that performance of the work will not adversely affect the borrower's ability to comply with pertinent terms and conditions in the loan and guaranty agreement.

§ 791.44 Patent and proprietary rights.

Patents and other proprietary rights accruing to the borrower and resulting from the project will remain with the borrower, except:

(a) Such rights shall be, in the case of default, treated as project assets in

accordance with the terms and conditions in the guaranty agreement.

(b) The guaranty agreement may provide that patents or other proprietary rights utilized in, or resulting from, the project, which are owned or controlled by the borrower, shall be made available to other domestic parties, upon reasonable terms and conditions which protect the confidentiality of information, if such action is determined by the Secretary to be in the public interest.

§ 791.45 Appeals.

All decisions by the Secretary relating to disputes arising under a guaranty agreement or loan agreement, made under and entered into pursuant to this regulation, shall be in writing. The borrower or lender, as applicable, may request the Secretary to reconsider any such decision. If not satisfied with the final decision made by the Secretary, the borrower or lender, upon receipt of such written decision, may appeal the decision within 30 days, in writing, to the Chairman, Board of Contract Appeals, Department of Energy, Washington, D.C. 20545. That Board, when functioning to resolve such loan guaranty disputes, shall proceed in the same general manner as when it presides over appeals involving contract disputes. The decision of the Board with respect to such appeals shall be the final decision of DOE.

[FR Doc. 78-13017 Filed 5-11-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Commodity Control List

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision places off-highway wheel tractors of carriage capacity 10 tons or more, and parts and accessories therefor, under validated license control to Libya. Previously, these commodities could be exported to this destination under the provisions of general license G-DEST, i.e., no license application was required to be submitted to the Office of Export Administration and no license document issued. The Office of Export Administration now requires individual applications so that proposed transactions can be reviewed to determine whether they would be in the foreign policy interests of the United States.

EFFECTIVE DATE OF ACTION: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

Accordingly, the Commodity Control List, incorporated by reference at 15 CFR 399.1(a), is revised to add the following entry:

* * * * *

Export control commodity number and commodity description	Unit	Processing code	Validated license required	CLV dollar value limits		
				T	V	Q
6490F Off/highway wheel tractors of carriage capacity 10 tons or more; and parts and accessories, n.e.s.	.....	MG	SZ and Libya.....	—	—	—

* * * * * * *

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; EO 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: May 9, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-13024 Filed 5-9-78; 4:58 pm]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5929]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Guide for Reports or Memoranda Concerning Registrants

AGENCY: Securities and Exchange Commission.

ACTION: Publication of amended guide.

SUMMARY: The Commission has authorized publication of an amendment to the guide for preparation and filing of registration statements which requires certain reports or memoranda concerning the registrant to be furnished to the staff as supplemental information in connection with submission of a registration statement. The amendment responds to a need for clarification of the guide and also relaxes the requirements of the guide in certain instances.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Catherine C. Scanlon, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C., 202-755-1998.

SUPPLEMENTARY INFORMATION: The Commission has authorized publication of an amendment to Guide 42, "Reports or Memoranda Concerning the Registrant," of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933[1] (15 U.S.C. 77a et seq.). The Guides are not Commission rules nor do they bear the Commission's official approval; they represent policies and practices followed by the Division of Corporation Finance in administering the disclosure requirements of the Securities Act of 1933 (the "1933 Act").

Guide 42 relates to the submission of supplemental material to the staff in connection with the filing of a registration statement under the 1933 Act. The guide indicates in general the particular types of material the Division

[1]Securities Act Release No. 4936, December 9, 1968 (33 FR 18617), as amended.

believes should be submitted. Guide 42 material serves two purposes: that of providing the staff with materials which assist in its review of 1933 Act registration statements; and that of enabling the staff to consider whether "gun-jumping" activities may have taken place.[2]

The Commission authorized the Division to solicit comments on the possible clarification or amendment of Guide 42 in Securities Act Release No. 5834, June 13, 1977 (42 FR 31458). That release requested comments specifically on several possible avenues for amendment as well as generally on the need for clarification of the intended operation of the guide. While Release No. 33-5834 did not include a proposed text for comment thereon, the Commission has authorized publication of these amendments because (1) the guide is not a Commission rule and therefore notice publication and opportunity for comment are not required under the Administrative Procedure Act (5 U.S.C. 553), (2) notice and opportunity to comment have already been provided with respect to the points pertinent to the amendment of the guide, and (3) the amendments of the Guide represent a relaxation of the provisions.

A discussion of the amendments published today, the points raised in Release No. 33-5834 and the comments received thereon follows, but attention is directed to the text of the amended Guide 42 for a more complete understanding.

Summary of Amended Guide 42 Provisions

Guide 42 as amended in this release provides that the Division be furnished supplementally the following materials in connection with a registration statement filed under the 1933 Act:

(a) Where the registrant does not meet the conditions for the use of Form S-7 (17 CFR 239.26), the provisions of clause one of the first paragraph of Guide 42 remain unchanged. That clause calls for furnishing of any engineering, management or similar reports or memoranda relating to the broad aspects of the business, operations or products of the registrant prepared during the previous twelve months for or by the registrant, certain principal security holders or any principal underwriter. The amendment makes an exception, however, if the subject materials are comprised solely of recommendations[3] which have not changed within the past six months or of information already contained in documents filed with the Commission.

(b) Where the registrant meets the conditions for the use of Form S-7, the amendments provide that only the materials relating to policing of "gun-jumping" (see (c) below) or to specified business transactions (see (d) below) need be furnished.

(c) "Clause two," the portion of the first paragraph of Guide 42 relating to furnishing materials to assist in consideration of possible "gun-jumping" problems, remains unchanged, but appears in sub-paragraph (c) of the amended guide.[4]

(d) A provision has been added as sub-paragraph (d) to make clear that the guide contemplates furnishing any feasibility studies, management analyses, "fairness" opinions or similar reports prepared by or for any party to a merger, consolidation, reclassification, acquisition of assets, exchange or tender offer or similar transaction.

Paragraph two of the guide has been amended to provide that, upon request and where consistent with the protection of investors and with the Freedom of Information Act (5 U.S.C. 552), the staff will return materials furnished pursuant to Guide 42 to the furnishing party upon completion of review of the contents of such materials. This provision, which is similar to that contained in the Instruction to Item 1(c)(1) of the recently adopted Regulation S-K (17 CFR Part 239),[5] responds to concerns about confidentiality and possible competitive harm expressed by a number of commentators.

Discussion of Changes Suggested by Commentators

Comments were received from 20 interested parties on Release No. 33-5834. The amended Guide 42 reflects a number of changes made as a result of such comments.

I. EXCEPTION FOR MATERIALS PREPARED IN THE ORDINARY COURSE OF BUSINESS

It has come to the Division's attention that Guide 42's requirement of submission of "any * * * report or memorandum relating to broad aspects of the business * * * of the registrant"[6] was being interpreted by some registrants and their counsel to include an exception for reports prepared by an underwriter in the ordinary course of business, prior to knowledge of the offering or of participation therein and not distributed after acquisition of such knowledge. As a result, the Division solicited comments in Release No. 33-5834 as to whether such an exception would be warranted, whether and how it could be drafted and defined with sufficient specificity, and whether full disclosure might be affected as a result.

Most commentators favored such an exception. However, there was no consensus as to either the general breadth of the exception or the specific items which should be included within such an exception. This lack of consensus and the imprecise or subjective nature of many of the suggested definitions and criteria indicated to the Division the questionable utility of enumerating included or excluded materials or establishing specific criteria or definitions. The Division noted, however, the consensus in favor of a relaxation of Guide 42 and the consensus of reasons advanced for a relaxation. These reasons included doubt that all materials required to be submitted under the guide actually aided staff review of registration statements; doubt that Guide 42 originally was intended to be as broad in scope as the Division has interpreted it to be; doubt that the possible benefit to investors from submission of all materials without exception outweighs the burden imposed on registrants and underwriters; and an observation that much of the material proposed to be excepted is already public.

The Division agrees that Guide 42 no longer needs to be as broad in scope as it has been. However, rather than an attempt to develop a list of exceptions, the Guide has been amended to classify issuers, based on the amount of information generally available about their activities. Accordingly, different provisions are applied depending on whether the registrant meets the conditions for the use of Form S-7. This approach will permit a great number of registrants to submit only information relating to possible "gun-jumping" or to specified business transactions. The Division believes that in the case of less seasoned registrants, however, the benefits of submission of other materials outweighs the burden.

Even registrants not meeting the Form S-7 conditions will be exempted from submitting any materials solely comprised of recommendations, so long as the recommendations have not changed in the previous 6 months, and from submitting information already publicly available in documents filed with the Commission. These two types of material, which are already identifiable and definable, are not necessary for review assistance and therefore

[2] The first and second clauses, respectively, of paragraph one of existing Guide 42 address these two purposes.

[3] The term recommendation in this context is limited to brief recommendations where the substance is no more than to buy, sell or hold any securities of the registrant.

[4] In accordance with usual practice, registrants and underwriters should also continue to advise the staff of recent newspaper or magazine articles or similar publications about the registrant which may have had the effect of preconditioning of the market for the securities to be registered.

[5] See Securities Act Release No. 5893, December 28, 1977 (42 FR 65554).

[6] Securities Act Release No. 4936, December 9, 1968 (33 FR 18617) at 42.

need not be submitted unless they come within the provision of subparagraph (c) of the amended guide.

II. EXCEPTION FOR RULE 138 (17 CFR 230.128) AND RULE 139 (17 CFR 230.139) MATERIALS

Comments were sought as to the advisability of a specific exception in Guide 42 for materials permitted to be used under the conditions specified in Rules 138 and 139 under the 1933 Act. Most commentators favored such an exception, particularly if other exceptions were not adopted.

Use of Rules 138 and 139 material by definition does not constitute "gun-jumping," and does not come within the ambit of subparagraph (c) of the amended guide. Such material is deemed to consist solely of recommendations for Guide 42 purposes, and will not come within subparagraph (a) of the amended guide unless the recommendations have changed in the previous 6 months. Accordingly, the Division does not believe a specific exception for Rules 138 and 139 material is necessary.

III. DISTINCTION AMONG UNDERWRITERS' DUTIES

In its effort to investigate possible avenues for relaxation of Guide 42's requirements, the Division suggested that a distinction might be made between managing underwriters and other members of the underwriting group and that only the former should be required to comply with the guide.

Most commentators opposed this distinction because they failed to see adequate basis for it. Because of the other amendments to the Guides and in light of the comments in opposition to this suggestion, the Division has determined that the guide will continue to apply to principal underwriters as defined in Rule 405 (17 CFR 230.405) under the 1933 Act.[7]

IV. SHORTENING OF TIME PERIOD

Almost all commentators who addressed Guide 42's 12-month period of coverage advocated shortening this period. Some, however, were in favor of a shortening of the period only if other substantive exceptions or relaxations were not adopted. No consensus on a more appropriate period emerged from the commentators' suggestions.

The Division believes that 12 months is an appropriate time period for issuers which do not meet the conditions for the use of Form S-7. In light of this, and the substantial relaxations being made in the guide's provisions, the Division has determined that no change in the time period is warranted.

V. COMPLIANCE RESPONSIBILITY

In order to assure that there is an understanding as to who bears the responsibility for compliance with the guide, the Division requested comment on this subject. Most commentators who addressed the point seemed to agree that each party covered by the guide, registrant, selling shareholders and principal underwriters, should be responsible for submission of materials which it prepared or had prepared. Accordingly, no further clarification of this point appears necessary at this time.

VI. NO DISTRIBUTION AFTER KNOWLEDGE OF OFFERING; DUAL PURPOSES OF GUIDE 42

Guide 42 has two purposes in requiring certain materials to be submitted: (1) assistance to the staff in registration statement review; and (2) determination of possible gun-jumping activities. The Division sought to determine whether these two distinct functions were sufficiently understood and whether those provisions of Guide 42 (clauses one and two, respectively, of paragraph one thereof) which specified the materials necessary to satisfy the two purposes were being complied with are not confused.

The comments received on this issue indicate that the distinct purposes are well understood and that no amendment or clarification of the gun-jumping portion of the guide, now sub-paragraph (c) of the amended guide, appears necessary.

TEXT OF AMENDED GUIDE

The text of the amended Guide 42 is as follows:

42. *Reports or Memoranda Concerning the Registrant.*

(1) The following should be furnished to the Division as supplemental information prior to any pre-filing conference or, if none, at the time of filing the registration statement or as soon as practicable thereafter:

(a) In the case of a registration statement filed under the Securities Act of 1933 by a registrant not meeting the conditions for the use of Form S-7, any engineering, management or similar reports or memoranda relating to broad aspects of the business, operations or products of the registrant which have been prepared within the past twelve months for or by the registrant, any security holder named in answer to Item 19(a) of Form S-1, or any principal underwriter, as defined in Rule 405, of the securities being registered (reports solely comprised of recommendations to buy, sell or hold registrant's securities, unless such recommendations have changed within the past 6 months, and/or of information already contained in documents filed with the Commission are excepted from this paragraph);

(b) In the case of a registration statement filed by a registrant which meets the conditions for the use of Form S-7, only those reports or memoranda called for by sub-paragraphs (c) and (d) of this guide;

(c) In all cases, any reports or memoranda which have been prepared for external use by the registrant or a principal underwriter in connection with the proposed offering;

(d) In the case of a registration statement relating to a reclassification of securities, merger, consolidation, acquisition of assets, exchange offer, tender offer or similar transaction, any feasibility studies, management analyses, fairness opinions or similar reports prepared by or for any of the parties to the subject transaction in connection with such transaction.

(2) There should also be furnished at the same time a statement as to the actual or proposed use and distribution of such report or memorandum. Such statement should identify each class of persons who have received or will receive the report or memorandum, and state the number of copies distributed to each such class. If no such report or memorandum has been prepared, the Division should be so informed in writing at the time the report or memorandum would otherwise have been submitted. Upon request made at the time of submission of materials pursuant to this guide and where consistent with the protection of investors and with the Freedom of Information Act (15 U.S.C. 552), the supplemental information furnished in response to this guide will be returned to the person who furnished it.

AUTHORITY

The Commission hereby authorizes the publication of amended Guide 42, "Reports or Memoranda Concerning the Registrant," pursuant to the Securities Act of 1933, particularly Sections 5, 7 and 10 thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 5, 1978.

[FR Doc. 78-13062 Filed 5-11-78; 8:45 am]

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[7] Rule 405 defines a principal underwriter as "an underwriter in privity of contract with the issuer of the securities as to which he is underwriter, the term 'issuer' having the meaning given in Sections 2(4) and 2(11) of the Act."

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

INSULIN REGULATIONS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority regarding issuance of insulin

regulations. The Director and Deputy Director of the Bureau of Drugs and the Assistant Director for Regulatory Affairs of that Bureau are being delegated this authority as a means of expediting the publication of insulin regulations in the FEDERAL REGISTER.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: A new § 5.74 is being established authorizing the Director and Deputy Director of the Bureau of Drugs and the Assistant Director for Regulatory Affairs of that Bureau to issue, amend, or repeal regulations governing drugs containing insulin.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by adding new § 5.74 to read as follows:

§ 5.74 Issuance, amendment, or repeal of regulations pertaining to drugs containing insulin.

The Director and Deputy Director of the Bureau of Drugs and the Assistant Director for Regulatory Affairs of that Bureau are authorized to perform all of the functions of the Commissioner of Food and Drugs under section 506 of the Federal Food, Drug, and Cosmetic Act regarding the issuance, amendment, or repeal of regulations pertaining to drugs containing insulin.

Effective date: This regulation shall be effective May 12, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: May 5, 1978.

JOSEPH P. HILE,
Associate Commissioner For Regulatory Affairs.

[FR Doc. 78-12963 Filed 5-11-78; 8:45 am]

[4110-03]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Commissioner of Food and Drugs, et al.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority and organization. Reorganizations within the Public Health Service and the Food and Drug Administration and corresponding amendments to delegations of authority require these revisions. The amendments are intended to clarify the new organizational and authority structure.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: As a part of the reorganization of the Public Health Service (PHS), published in the FEDERAL REGISTER of December 2, 1977 (42 FR 61317), the Assistant Secretary for Health, in the FEDERAL REGISTER of December 20, 1977 (42 FR 63821), revoked all existing delegations of authority relating to Public Health Service programs and delegated them to the Deputy Assistant Secretary for Health-Programs. The Deputy Assistant Secretary concurrently redelegated all authority back to PHS agency heads; § 5.1 (21 CFR 5.1) is being amended to reflect that change.

Additionally, § 5.100 (21 CFR 5.100) is being amended to reflect changes in the organizational structure made by reorganizations in the Office of the Commissioner of Food and Drugs (published in the FEDERAL REGISTER of April 18, 1978 (43 FR 16418)), Bureau of Biologics (published in the FEDERAL REGISTER of October 18, 1977 (42 FR 55653)), Bureau of Foods (published in the FEDERAL REGISTER of January 6, 1978 (43 FR 1136)), and Executive Director of Regional Operations (published in the FEDERAL REGISTER of November 9, 1977 (42 FR 58450)).

Under the reorganization of the Office of the Commissioner, § 5.20 (21 CFR 5.20) is being amended to include title changes, add the new order of succession, and further clarify the contents.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 5 is amended as follows:

1. Section 5.1 is amended by revising the section heading and the introductory text of paragraph (a) to read as follows:

§ 5.1 Delegations from the Secretary, Assistant Secretary for Health, and Deputy Assistant Secretary for Health-Programs.

(a) The Deputy Assistant Secretary for Health-Programs has redelegated to the Commissioner of Food and Drugs, with authority to redelegate all authority delegated by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health and redelegated in turn to the Deputy Assistant Secretary for Health-Programs, as follows:

* * * * *

2. Section 5.20 is revised to read as follows:

§ 5.20 General redelegations of authority from the Commissioner to other officials of the Food and Drug Administration.

(a) Final authority of the Commissioner of Food and Drugs is redelegated as set forth in this subpart.

(b) The Deputy Commissioner and the Associate Commissioner for Regulatory Affairs are authorized to perform all of the functions of the Commissioner of Food and Drugs.

(c) During the absence or disability of the Commissioner or in the event of a vacancy in that position, the first official listed who is available shall act as Commissioner:

(1) Deputy Commissioner.
(2) Associate Commissioner for Regulatory Affairs.
(3) Associate Commissioner for Health Affairs.
(4) Associate Commissioner for Policy Coordination.
(5) Associate Commissioner for Management and Operations.
(6) Associate Commissioner for Planning and Evaluation.
(7) Associate Commissioner for Legislative Affairs.
(8) Associate Commissioner for Public Affairs.

For a planned period of absence, the Commissioner may specify a different order of succession.

(d) Authority delegated to a position by title may be exercised by a person officially designated to serve in that position in an acting capacity or on a temporary basis, unless prohibited by a restriction in the document designating him as "acting" or unless not legally permissible.

(e) Authority delegated in the following sections of this subpart may not be redelegated.

3. Section 5.100 is amended by revising the listings for the Office of the

Commissioner, the Bureau of Biologics, the Bureau of Foods, and the Executive Director of Regional Operations to read as follows:

§ 5.100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

OFFICE OF THE COMMISSIONER [1]

Commissioner of Food and Drugs.
Deputy Commissioner.

ADMINISTRATIVE LAW JUDGE

Office of Regulatory Affairs.
Office of Health Affairs.
Office of Policy Coordination.
Office of Management and Operations.

HEARING CLERK

Office of Planning and Evaluation.
Office of Legislative Affairs.
Office of Public Affairs.

BUREAU OF BIOLOGICS [2]

Office of the Director.
Division of Compliance (Biologics).
Division of Virology.
Division of Blood and Blood Products.
Division of Control Activities.
Division of Pathology.
Division of Bacterial Products.
Division of Biologics Evaluation.

* * * * *

BUREAU OF FOODS [3]

Office of the Director.
Associate Director for Compliance.
Division of Regulatory Guidance.
Division of Compliance and Industry Programs.
Division of Food and Color Additives.
Associate Director for Sciences.
Division of Chemistry and Physics.
Division of Toxicology.
Division of Pathology.
Division of Microbiology.
Division of Mathematics.
Associate Director for Technology.
Division of Food Technology.
Division of Chemical Technology.
Division of Color Technology.
Division of Cosmetics Technology.
Associate Director for Nutrition and Consumer Sciences.
Division of Consumer Studies.
Division of Retail Food Protection.
Division of Nutrition.

* * * * *

EXECUTIVE DIRECTOR OF REGIONAL OPERATION [1]

Office of the Executive Director.
Office of Resource Planning and Management.
Division of Federal-State Relations.
Division of Field Science and Technology.
Division of Field Investigations.
Division of Field Regulatory Guidance.

* * * * *

Effective date. This regulation shall be effective May 12, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: April 30, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-12786 Filed 5-11-78; 8:45 am]

[1] Mailing address: 5600 Fishers Lane, Rockville, MD 20857.
[2] Mailing address: 8800 Rockville Pike, Bethesda, MD 20014.
[3] Mailing address: 200 C Street SW., Washington, DC 20204.

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Termination of Panel on Review of Antiperspirant Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: In accordance with the public advisory committee procedures, this document announces the termination of the Panel on Review of Antiperspirant Drug Products and amends the regulation listing the standing advisory committees. The Panel was terminated on April 13, 1978 because it was no longer needed.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Lee Geismar, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Panel on Review of Antiperspirant Drug Products reviewed and evaluated available data concerning the safety and effectiveness of nonprescription antiperspirant drug products. Its conclusions and recommendations will be published in a future issue of the FEDERAL REGISTER.

Accordingly, the Panel is no longer needed because its usefulness has been served. On April 13, 1978, the Panel was abolished by the Secretary, Department of Health, Education, and Welfare as the Commissioner of Food and Drugs requested.

Because this is a technical conforming amendment to Part 14 (21 CFR Part 14), the Commissioner of Food and Drugs finds there is good cause for the rule to be effective immediately.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under the authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees,* by deleting paragraph (c)(20)(i)(l) and marking it reserved.

Effective date. This amendment shall be effective May 12, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12789 Filed 5-11-78; 8:45 am]

[6560-01]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[FAP 6H5140/T36; FRL 895-3]

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends food and feed additive regulations permitting the experimental use of the herbicide glyphosate in sugarcane molasses. The extension was requested by Monsanto Co. This rule will permit the marketing of sugarcane molasses while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James G. Touhey, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington D.C. 20460, 202-755-4851.

SUPPLEMENTARY INFORMATION: On November 11, 1977, the EPA announced (42 FR 58738) that in response to a petition (FAP 6H5140) submitted by Monsanto Agricultural Products Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63116, 21

CFR 193.235 and 561.253 were being amended to permit the experimental use of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in a proposed experimental program involving application of the herbicide to growing sugarcane with a tolerance limitation of 2 parts per million (ppm) for residues of the herbicide in sugarcane molasses in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). This experimental program expires June 15, 1978.

Monsanto Co. has requested a 1-year extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodity sugarcane.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in sugarcane molasses from the agricultural use provided for in the experimental use permit, the food and feed additive regulations should be extended along with the tolerance limitation. (A related document concerning the extension of temporary tolerances for residues of the subject pesticide in or on sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's FEDERAL REGISTER.)

Accordingly, food and feed additive regulations are amended as set forth below.

Any person adversely affected by this regulation may, on or before June 12, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective May 12, 1978, 21 CFR Part 561 is amended as set forth below.

(Section 409(c)(1) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Dated: May 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

1. Part 193, Subpart A, § 193.235(b), is amended as followed:

§ 193.235 [Amended]

Section 193.235 *Glyphosate* is amended by changing the date at the end of the last line in paragraph (b) from "June 15, 1978" to "May 3, 1979."

2. Part 561, Subpart A, § 561.253(c), is amended as follows:

§ 561.253 [Amended]

Section 561.253 *Glyphosate* is amended by changing the date at the end of the last line in paragraph (c) from "June 15, 1978" to "May 3, 1979."

[FR Doc. 78-12958 Filed 5-11-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Levamisole Phosphate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by American Cyanamid Co., providing for subcutaneous use of 13.65 percent levamisole phosphate injection as an anthelmintic in cattle.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540, filed a new animal drug application (102-437V) providing for subcutaneous use of a levamisole phosphate injection containing the equivalent of 13.65 percent levamisole hydrochloride. The drug is administered to cattle as an anthelmintic for treating infections of certain stomach worms, intestinal worms, and lungworms. The animal drug regulations are amended to provide for a formulation containing 13.65 percent active drug ingredient. The drug is currently approved for a formulation containing 18.2 percent. The approval of this application did not involve a review of the human safety data for levamisole, and the approval does not constitute a reaffirmation of the human safety data.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal holidays.

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 5.1), Part 522 is amended by revising § 522.1244 to read as follows:

§ 522.1244 Levamisole phosphate injection.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains levamisole phosphate equivalent to 136.5 or 182 milligrams of levamisole hydrochloride (13.65 or 18.2 percent).

(b) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 2 milliliters per pound of body weight, subcutaneously in the neck.

(2) *Indications for use.* (i) The 13.65 percent injection is used as an anthelmintic in cattle for treatment of the following parasites: stomach worms (*Haemonchus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum, Chabertia*), and lungworms (*Dictyocaulus*).

(ii) The 18.2 percent injection is used as an anthelmintic in cattle for treatment of the following parasites: stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum*) and lungworms (*Dictyocaulus*).

(3) *Limitations.* Do not administer more than 10 milliliters per site. Cattle that are severely parasitized or maintained under conditions of constant helminth exposure may require re-treatment within 2 to 4 weeks after first treatment. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Consult your veterinarian before using in severely debilitated animals or animals under severe stress. Do not administer to cattle within 7 days of slaughter. Do not administer to dairy animals of breeding age.

Effective date. May 12, 1978.

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

Dated: May 4, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-12788 Filed 5-11-78; 8:45 am]

[4710-02]

Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

PART 216—ENVIRONMENTAL PROCEDURES

Amendment of Regulations—Pesticide and Other Environmental Procedures

AGENCY: Agency for International Development (A.I.D.).

ACTION: Final rule.

SUMMARY: This rule adds to current A.I.D. regulations supplemental procedures for the environmental assessment of proposed A.I.D. projects involving the procurement and use of pesticides and makes other changes in A.I.D.'s environmental procedures required as a result of changes in A.I.D.'s project review and approval process.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Albert Printz, A.I.D. Environmental Coordinator, Agency for International Development, Department of State, Washington, D.C. 20523, telephone No. 202-632-1036.

SUPPLEMENTARY INFORMATION: On December 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 63900) proposing certain amendments to A.I.D.'s environmental procedures. The proposed amendments would add supplemental procedures for the environmental assessment of all proposed A.I.D. projects involving assistance for the procurement or use, or both, of pesticides. Additional modifications were proposed to A.I.D.'s environmental procedures in order to adapt them to recent changes in A.I.D.'s project and program review and approval process that have eliminated the stage in those processes at which initial environmental examinations were previously conducted. All comments with respect to the proposed revisions were given due consideration.

As a result of comments received, the following changes in the revised procedures have been made:

1. The definition of "minor donor" as proposed in §216.1(c)(12) has been more clearly stated, in response to a comment from several bureaus within A.I.D.

2. Section 216.3(b)(1)(i) has been revised by deleting the words "for research or limited field evaluation purposes, or if the pesticides are". In conjunction with this, a new §216.3(b)(2)(iii) has been added, excepting from the supplemental evaluation procedures those projects including assistance for procurement or use, or both, of pesticides for research or limited field evaluation purposes. Certain limitations are established for such projects. The revisions respond to recommendations received from pesticide specialists from several universities and the Environmental Protection Agency who commented that it would be impractical to apply the supplemental evaluation procedures to pesticides being used for research purposes and for which development of risk/benefit data was the object of the research.

3. The word "costs" in §216.3(b)(1)(i) has been changed to "risks" to emphasize the importance of non-economic factors in the supplemental evaluation.

4. Based upon a recommendation from the Department of the Interior, hydrology and soils have been added to the list of factors to be considered in the risk/benefit evaluation (§216.3(b)(1)(i)(h)).

Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons indicated.

1. Two commentors suggested that the contribution levels used in the definition of "minor donor" in §216.1(c)(12) be lowered. A third commentor suggested that the minor donor exception should not be used to exempt the Agency from applying the supplemental pesticide evaluation procedures in multidonor projects.

The monetary and percentage limitations used in the definition are based on A.I.D. experience in multidonor projects and represent levels below which A.I.D. generally has little voice in the conduct of the project in the absence of control provisions in the agreement establishing the project. Accordingly, these limits have not been modified. A.I.D. intends, however, to reassess continually the appropriateness of these levels. In instances where A.I.D. is a minor contributor to a multidonor project, A.I.D. will attempt to influence others to conduct comprehensive assessments and incorporate integrated pest management techniques to the fullest extent possible.

2. The automatic requirement for the preparation of an EA or EIS in §216.3(b)(1)(iii) in the case of a pesticide for which EPA has issued a notice of rebuttable presumption against reregistration (RPAR) was questioned on the basis of the informal nature of the RPAR process and the absence of an established finding of environmental problems with the use of a pesticide prior to the issuance of a RPAR. The Agency believes that the issuance of an RPAR raises serious questions about the safety of a pesticide that should be taken into account in determining the acceptability of that chemical under the unique conditions in the requesting country. Accordingly, the mandatory requirement for an EA or EIS in such instances has been retained.

3. One commentor suggested the addition of a separate policy section to the regulations summarizing an A.I.D. policy of not financing unregistered pesticides and recommended that the regulations include a preference for the use of integrated pest management techniques before chemical pesticides are used. These and other agency policies relating to pest management will be addressed in separate agency policy statements and need not be included in these procedural regulations.

4. It was proposed that the regulations provide for notice in the FEDERAL REGISTER whenever pesticides are approved for which either RPAR's, notices of cancellation or suspension have been issued by EPA.

The proposed regulations require that either an EA or EIS be prepared in each of these cases. A.I.D. believes that procedures for preparing such assessments already provide adequate information to the concerned agencies or interest groups; therefore, no changes were made in the proposed procedures.

5. One commentor questioned the need for an exception from the pesticide procedures under both "emergency conditions" and "compelling circumstances." Each of these exceptions was included to cover different circumstances and accordingly no change has been made in the proposed revisions.

6. One commentor suggested that the regulations should treat as registered, unregistered pesticides with the same active ingredients as pesticides already registered by EPA. This suggestion was not adopted because the environmental effects of a pesticide may vary significantly depending on the specific formulation utilized. While EPA has considered registering pesticides based on active ingredients, it has not yet adopted such an approach.

All comments received in response to the proposed procedures are available for public inspection at A.I.D.

Because of the importance of promptly making known to A.I.D. offices, other governments and U.S. Federal agencies, and other interested per-

sons, the content of these regulations, the Administrator finds good cause to declare these regulations effective upon publication. A.I.D.'s Interim Pesticide Procedures (41 FR 1297, January 7, 1976) are hereby superseded and revoked.

Accordingly, 22 CFR part 216 is amended as follows:

§ 216.1 [Amended]—

1. By revising the last sentence of § 216.1(c)(2) to read:

* * * * *

(c) * * *

(2) * * * The Initial Environmental Examination will be an integral part of the Project Identification Document or equivalent document which will be circulated to selected Federal agencies for comment, when an Environmental Assessment is to be prepared.

* * * * *

2. By revising the first sentence of § 216.1(c)(3) to read:

* * * * *

(c) * * *

(3) * * * A formal Agency decision which determines, based on an Initial Environmental Examination, whether a proposed agency action is or is not a major action significantly affecting the human environment, and, if so, whether an Environment Assessment or an Environment Impact Statement is required.

* * * * *

3. By deleting §§ 216.1(c)(10), *Project Review Paper* (PRP), and 216.1(c)(11), *Program Assistance Review Document* (PARD).

4. By renumbering §§ 216.1(c)(12), *Project Paper* (PP), and 216.1(c)(13), *Program Assistance Approval Document* (PAAD) to read respectively, 216.1(c)(10) and 216.1(c)(11).

5. By adding a new § 216.1(c)(12) to read as follows:

* * * * *

(c) * * *

(12) *Minor Donor.* For the purposes of these procedures, A.I.D. is a minor donor to a multidonor project when (i) A.I.D.'s total contribution to the project will not exceed either $1,000,000 or 25 percent of the estimated project cost; and (ii) A.I.D. does not, under the terms of the agreement governing its contribution, control the planning or design of the multidonor project.

6. By revising § 216.3, *General Procedures,* to read:

§ 216.3 Procedures.

(a) *General Procedures*—(1) *Preparation of the Initial Environmental Examination.* An Initial Environmental Examination will be prepared by the originator of a project concurrently with the Project Identification Document (PID) or Program Assistance Initial Proposal (PAIP). For projects including the procurement or use, or both, of pesticides, the procedures set forth in § 216.3(b) will be followed in addition to the procedures in paragraph (a). If some of the activities to be conducted under the project are not identified in sufficient detail to permit the completion of an Initial Environmental Examination at the PID or PAIP stage, the PID or PAIP will include (i) an explanation indicating why the Initial Environmental Examination cannot be completed; (ii) an estimate of the amount of time required to complete the initial environmental analysis; and (iii) a recommendation that a Threshold Decision be deferred until the Initial Environmental Examination is completed. The responsible Assistant Administrator will act on the request for deferral concurrently with action on the PID or PAIP and will designate a time for completion of the Initial Environmental Examination. In all instances this completion date will be in sufficient time to allow for the completion of an Environmental Assessment or Environmental Impact Statement, if required, before a final decision is made to provide A.I.D. funding for the project.

(2) *Threshold Decision.* If the Initial Environmental Examination is completed prior to or at the same time as the Project Identification Document or Program Assistance Initial Proposal, a Threshold Decision will be specifically recommended in the Project Identification Document or Program Assistance Initial Proposal and acted upon at the Bureau or office level concurrently with approval of those documents. When a Initial Environmental Examination is completed subsequent to approval of the Program Identification document or Program Assistance Initial Proposal pursuant to § 216.3(a)(1) above, it will be immediately forwarded to the responsible Assistant Administrator with a recommended Threshold Decision. If the Threshold Decision is negative (i.e. an Environmental Assessment or an Environmental Impact Statement is not required), the cognizant Bureau or office will record this decision and such record will constitute a Negative Determination. If the Threshold Decision based on an Initial Environmental Examination is positive (i.e. a significant environmental impact is likely to occur), then the activity is to be evaluated to determine if an EIS is to prepared pursuant to § 216.6 of these procedures. When a Threshold Decision based on an Initial Environmental Examination indicates that an Environmental Assessment is required the procedures of § 216.5 will be followed and the approved Project Identification Document or other document containing the Initial Environmental Examination will be circulated to selected U.S. Federal agencies with relevant expertise, utilizing the list provided in the CEQ Guidelines. Such agencies will be invited to make written comments within thirty days on the Examination and on matters that should be considered in preparation of the Environmental Assessment. Comments received on environmental aspects from reviewing Federal agencies will be forwarded to the originating project office for consideration in the formulation of the design and implementation of the project and the required Environmental Assessment, and will form part of the project file when the project comes forward in the Project Paper stage for final approval.

(3) *Preparation of Environmental Assessments and Environmental Impact Statements.* If the Project Identification Document or Program Assistance Initial Proposal is approved, and if the Threshold Decision is positive, the originator of the project will prepare, prior to or concurrently with the Project Paper or Program Assistance Approval Document, an Environmental Assessment or draft Environmental Impact Statement as required. Draft Environmental Impact Statements will be circulated for review and comment as part of the review of Project Papers and as outlined further in § 216.6 of these procedures. Final approval of the Project Paper or Program Assistance Approval Document and the method of implementation will include consideration of the Environmental Assessment or final Environmental Impact Statement, as well as other required (non-environmental) analyses. If loans or grants for broad sector activities (e.g. river basin development etc.) are proposed, a general or programmatic Environmental Assessment or Environmental Impact Statement consistent with the scope of the proposed loan or grant will be prepared in conjunction with the Project Paper and agreement will be reached with the recipient government that a detailed Assessment will be prepared and considered on each individual project as it is developed and prior to its approval.

(4) *Processing and Review Within A.I.D.* Initial Environmental Examinations, Environmental Assessments and final Environmental Impact Statements will be processed within A.I.D. in accordance with the normal A.I.D. procedures for other documents. These procedures call for participation in the project review process of technical, legal and country specialists. Environmental Assessments and final Environmental Impact Statements will be reviewed as an integral part of the

Project Paper or equivalent. In addition to these normal procedures, Environmental Assessments will be reviewed by the appointed Bureau environmental officer and, periodically, by the Environmental Coordinator who will monitor the Environmental Assessment process. Draft and final Environmental Impact Statements will be reviewed by the Environmental Coordinator and the Office of the General Counsel.

(5) *Monitoring.* To the extent feasible and relevant, projects and programs for which Environmental Impact Statements or Environmental Assessments have been prepared, should be designed to include measurement of any changes in environmental quality, positive or negative, during their implementation. This will require recording of baseline data at the start. To the extent that available data permits, originating offices of A.I.D. will formulate systems in collaboration with the recipient nation(s), to monitor such impacts during the life of A.I.D.'s involvement in the activity.

(6) *Revisions.* If, after a Threshold Decision is made resulting in a Negative Determination, a project is revised or new information becomes available which indicates that a proposed action might be "major" and its effects "significant", the Negative Determination will be reviewed and revised by the cognizant Bureau and an Environmental Assessment of Environmental Impact Statement will be prepared, if appropriate. Environmental Assessments and Environmental Impact Statements will be amended and processed appropriately if there are major changes in the project or program, or when significant new information becomes available. When on-going programs are revised to incorporate a change in scope or nature, a determination will be made as to whether such change may have an environmental impact not previously assessed. If so, the procedures outlined above will be followed.

(b) *Pesticide Procedures*—(1) *Project Assistance.* Except as provided in § 216.3(b)(2), all proposed projects involving assistance for the procurement or use, or both, of pesticides shall be subject to the procedures prescribed in § 216.3(b)(1) (i) through (v) below. These procedures shall also apply, to the extent permitted by agreements entered into by A.I.D. before the effective date of these pesticide procedures, to such projects that have been authorized but for which pesticides have not been procured as of the effective date of these pesticide procedures.

(i) When a project includes assistance for procurement or use, or both, of pesticides registered for the same or similar uses by USEPA without restriction, the Initial Environmental Examination for the project shall include a separate section evaluating the economic, social and environmental risks and benefits of the planned pesticide use to determine whether the use may result in significant environmental impact. Factors to be considered in such an evaluation shall include, but not be limited to the following:

(*a*) The USEPA registration status of the requested pesticide;
(*b*) The basis for selection of the requested pesticide;
(*c*) The extent to which the proposed pesticide use is part of an integrated pest management program;
(*d*) The proposed method or methods of application, including availability of appropriate application and safety equipment;
(*e*) Any acute and long-term toxicological hazards, either human or environmental, associated with the proposed use and measures available to minimize such hazards;
(*f*) The effectiveness of the requested pesticide for the proposed use;
(*g*) Compatibility of the proposed pesticide with target and nontarget ecosystems;
(*h*) The conditions under which the pesticide is to be used, including climate, flora, fauna, geography, hydrology, and soils;
(*i*) The availability and effectiveness of other pesticides or nonchemical control methods;
(*j*) The requesting country's ability to regulate or control the distribution, storage, use and disposal of the requested pesticide;
(*k*) The provisions made for training of users and applicators; and
(*l*) The provisions made for monitoring the use and effectiveness of the pesticide.

In those cases where the evaluation of the proposed pesticide use in the Initial Environmental Examination indicates that the use will significantly effect the human environment, the Threshold Decision will include a recommendation for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate. In the event a decision is made to approve the planned pesticide use, the Project Paper shall include to the extent practicable, provisions designed to mitigate potential adverse effects of the pesticide. When the pesticide evaluation section of the Initial Environmental Examination does not indicate a potentially unreasonable risk arising from the pesticide use, an Environmental Assessment or Environmental Impact Statement shall nevertheless be prepared if the environmental effects of the project otherwise require further assessment.

(ii) When a project includes assistance for the procurement or use, or both, of any pesticide registered for the same or similar uses in the United States but the proposed use is restricted by the USEPA on the basis of user hazard, the procedures set forth in § 216.3(b)(1)(i) above will be followed. In addition, the Initial Environmental Examination will include an evaluation of the user hazards associated with the proposed USEPA restricted uses to ensure that the implementation plan which is contained in the Project Paper incorporates provisions for making the recipient government aware of these risks and providing, if necessary, such technical assistance as may be required to mitigate these risks. If the proposed pesticide use is also restricted on a basis other than user hazard, the procedures in § 216.3(b)(1)(iii) shall be followed in lieu of the procedures in this subsection.

(iii) If the project includes assistance for the procurement or use, or both of:

(*a*) Any pesticide other than one registered for general use or for restricted use on the basis of user hazard; or

(*b*) Any pesticide for which a notice of rebuttable presumption against reregistration, notice of intent to cancel, or notice of intent to suspend has been issued by USEPA,

The Threshold Decision will provide for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate (§ 216.6(a)). The EA or EIS shall include, but not be limited to, an analysis of the factors identified in § 216.3(b)(1)(i) above.

(iv) Notwithstanding the provisions of §§ 216.3(b)(1) (i) through (iii) above, if the project includes assistance for the procurement or use, or both, of a pesticide against which USEPA has initiated a regulatory action for cause, or for which it has issued a notice of rebuttable presumption against reregistration, the nature of the action or notice, including the relevant technical and scientific factors will be discussed with the requesting government and considered in the IEE and, if prepared, in the EA or EIS. If USEPA initiates any of the regulatory actions above against a pesticide subsequent to its evaluation in an IEE, EA or EIS, the nature of the action will be discussed with the recipient government and considered in an amended IEE or amended EA or EIS, as appropriate.

(v) If the project includes assistance for the procurement or use, or both of pesticides but the specific pesticides to be procured or used cannot be identified at the time the IEE is prepared, the procedures outlined in §§ 216.3(b) (i) through (iv) will be followed when the specific pesticides are identified and before procurement or use is authorized. Where identification of the pesticides to be procured or used does not occur until after Project Paper approval, neither the procurement nor the use of the pesticides shall be undertaken unless approved, in writing, by the Assistant Administrator (or in the case of projects authorized at the Mission level, the Mission Director) who approved the Project Paper.

(2) *Exceptions to Pesticide Procedures.* The procedures set forth in § 216.3(b)(1) above shall not apply to the following projects including assist-

ance for the procurement or use, or both, of pesticides.

(i) Projects under emergency conditions.

Emergency conditions shall be deemed to exist when it is determined by the Administrator, A.I.D., in writing that:

(*a*) A pest outbreak has occurred or is imminent; and

(*b*) Significant health problems (either human or animal) or significant economic problems will occur without the prompt use of the proposed pesticide; and

(*c*) Insufficient time is available before the pesticide must be used to evaluate the proposed use in accordance with the provisions of this regulation.

(ii) Projects where A.I.D. is a minor donor, as defined in § 216.1(c)(12) above, to a multi-donor project.

(iii) Projects including assistance for procurement or use, or both, of pesticides for research or limited field evaluation purposes by or under the supervision of project personnel. In such instances, however, A.I.D. will ensure that the manufacturers of the pesticides provide toxicological and environmental data necessary to safeguard the health or research personnel and the quality of the local environment in which the pesticides will be used. Furthermore, treated crops will not be used for human or animal consumption unless appropriate tolerances have been established by EPA or recommended by FAO/WHO, and the rates and frequency of application, together with the prescribed preharvest intervals, do not result in residues exceeding such tolerances. This prohibition does not apply to the feeding of such crops to animals for research purposes.

(3) *Non-Project Assistance.* In a very few limited number of circumstances A.I.D. may provide non-project assistance for the procurement and use of pesticides. Assistance in such cases shall be provided if the A.I.D. Administrator determines in writing that (i) emergency conditions, as defined in § 216.3(b)(2)(i) above exists; or (ii) that compelling circumstances exist such that failure to provide the proposed assistance would seriously impede the attainment of U.S. foreign policy objectives or the objectives of the foreign assistance program. In the latter case, a decision to provide the assistance will be based to the maximum extent practicable, upon a consideration of the factors set forth in § 216.3(b)(1)(i) and, to the extent available, the history of efficacy and safety covering the past use of the pesticide the in recipient country.

Dated: May 3, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-13027 Filed 5-11-78; 8:45 am]

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-50]

RECORD RETENTION REQUIREMENTS

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: This document increases the required time period for retention of records prescribed by the regulations listed above. The new time period is 3 years, and the regional regulatory administrator is given discretionary authority to prescribe an additional retention period of not more than 3 years. The purpose of the change is to insure that records will be available long enough to support any action that might be taken within the applicable statutes of limitation.

EFFECTIVE DATE: June 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Steven C. Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Room 622B, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: On page 3137 of the FEDERAL REGISTER for Monday, January 23, 1978, there was published a proposed rule to increase to 3 years the record retention period of 27 CFR Parts 18, 194, 250, and 251. The proposed amendments also granted discretionary authority to the regional regulatory administrator to prescribe an additional retention period of up to 3 years.

Public participation was solicited, and a 60-day comment period was prescribed. No written public comments have been received during this period. Accordingly, the proposed amendments are adopted without change (except to incorporate the changes of T.D. ATF-48, published March 31, 1978).

DRAFTING INFORMATION

The principal drafter of this document was Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, supervisors and reviewers from both the Bureau and the Department of the Treasury exercised control over the development of the regulations, both as to matters of substance and style.

AUTHORITY: This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: April 20, 1978.

REX D. DAVIS,
Director.

Approved: May 1, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

PARAGRAPH A. The regulations in 27 CFR Part 18 are amended as follows:

1. Section 18.11 is amended to add, in alphabetical order, a definition of "regional regulatory administrator," and to revise the definition of "regional director." As amended, the affected portions of § 18.11 read as follows:

§ 18.11 Meaning of terms.

* * * * *

Regional regulatory administrator. The principal regional official responsbile for administering regulations in this part.

* * * * *

2. Section 18.141 is amended to increase the records retention period to 3 years (rather than 2 years, as it currently is), and to provide that the regional regulatory administrator may prescribe an additional retention period of up to 3 years in certain circumstances. (Currently, the regulations have only a 2-year discretionary additional period.) The amendment also reflects the change in title from "regional director" to "regional regulatory administrator," and it includes clarifying and stylistic changes. As amended, § 18.141 reads as follows:

§ 18.141 Records and reports.

Each proprietor shall keep records and submit reports (including applications and notices) as required by this part. These records, and copies of applications, notices, and reports, shall be maintained on or convenient to the concentrate plant, and be available for inspection by ATF officers during business hours. The records and copies of applications, notices and reports shall be retained for not less than three years from the date they were made, or the date of the last entry required to be made in them, whichever is the later. Furthermore, the regional regulatory administrator may require these records and copies of applications, notices, and reports to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable.

PART 194 LIQUOR DEALERS

PAR. B. The regulations in 27 CFR Part 194 are amended as follows:

1. Section 194.11 is amended to provide, in alphabetical order, definitions of "ATF officer" and "regional regulatory administrator"; to revise the definitions of "assistant regional commissioner", "internal revenue officer", and "regional director"; and to delete the definition of "regional commissioner". As amended, the affected portions of § 194.11 read as follows:

§ 194.11 Meaning of terms.

* * * * *

Assistant regional commissioner. A regional regulatory administrator as defined in this section.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

* * * * *

Internal revenue officer. An ATF officer as defined in this section.

* * * * *

Place, or place of business. * * *

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Sale at retail or retail sale. * * *

* * * * *

2. Section 194.222 is amended to change the reference to the records retention period from "not less than two years" to "not less than three years", to substitute "regional regulatory administrators" for "assistant regional commissioners", and to make stylistic changes. As amended, § 194.222 reads as follows:

§ 194.222 Requirements as to wines and beer.

Each wholesale dealer in liquors who receives wines, or wines and beer, and each wholesale dealer in beer shall keep at his place of business a complete record of all wines and beer received, showing (a) the quantities thereof, (b) from whom received, and (c) the receiving dates. This record, which must be kept for a period of not less than three years as prescribed in § 194.242, shall consist of all purchase invoices or bills covering wines and beer received or, at the option of the dealer, a book record containing all of the required information. Wholesale dealers are not required to prepare or submit reports to regional regulatory administrators of transactions relating to wines and beer.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555).)

3. Section 194.242 is amended to change the records retention period from "not less than 2 years" to "not less than three years", to change "internal revenue officers" to "ATF officers", to add a provision that the regional regulatory administrator may require records to be kept for an additional period of not more than three years, and to make stylistic changes. As amended, § 194.242 reads as follows:

§ 194.242 Retention of records and files.

All records prescribed by this part, documents or copies of documents supporting these records, and file copies of reports submitted, shall be retained by the person required to keep the documents for a period of not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555).)

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

PARAGRAPH C. The regulations in 27 CFR Part 250 are amended as follows:

1. Section 250.11 is amended to provide, in alphabetical order, definitions of "ATF officer" and "regional regulatory administrator"; and to revise the definitions of "assistant regional commissioner," "Director, alcohol, tobacco and firearms division", "region" and "regional director." As amended, the affected portions of § 250.11 read as follows:

§ 250.11 Meaning of terms.

* * * * *

Assistant regional commissioner. A regional regulatory administrator as defined in this section.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

* * * * *

Director, Alcohol, Tobacco and Firearms Division. The Director, Bureau of Alcohol, Tobacco and Firearms as defined in this section.

* * * * *

Region. A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

* * * * *

2. Paragraph (b) of § 250.143 is amended to delete instructions that apply only to ATF personnel. As amended, § 250.143 reads as follows:

§ 250.143 Procurement and custody of red strip stamps.

* * * * *

(b) *Alternative method.* When the Chief, Puerto Rican Operations, determines that the interest of the government will be best served thereby, the stamps may be shipped directly to the Commonwealth revenue agent at the plant from the Bureau of Engraving and Printing. In this case, orders on Form 428 for standard size red strip stamps shall be in multiples of 100,000 stamps, and orders for small size shall be in multiples of 50 stamps (one sheet).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

3. Section 250.276 is amended to replace "assistant regional commissioner" with "regional regulatory administrator"; "internal revenue officers" is replaced with "ATF officers"; and "director of customs" is replaced with "district director of customs." The retention period is changed from "not less than two years" to "not less than three years"; a provision is added that the regional regulatory administrator may require records to be kept for an additional period of not more than three years; and minor stylistic changes are made. As amended, § 250.276 reads as follows:

§ 250.276 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part to be submitted to the regional regulatory administrator or to the district director of customs shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF or customs officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any rec-

ords, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1361, 1395 (26 U.S.C. 5114, 5124, 5146, 5207, 5555).)

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Par. D. The regulations in 27 CFR Part 251 are amended as follows:

1. Section 251.11 is amended to revise the definitions of "alcohol, tobacco and firearms officer", "assistant regional commissioner", "Director, alcohol, tobacco and firearms division", "internal revenue officer", "region", and "regional director." A new definition of "regional regulatory administrator" is added in alphabetical order. As amended, the affected portions of § 251.11 read as follows:

§ 251.11 Meaning of terms.

* * * * *

Alcohol, tobacco and firearms officer, or ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

Assistant regional commissioner. A regional regulatory administrator as defined in this section.

* * * * *

Director, Alcohol, Tobacco and Firearms Division. The Director, Bureau of Alcohol, Tobacco and Firearms, as defined in this section.

* * * * *

Internal revenue officer. An ATF officer as defined in this section.

* * * * *

Region. A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

* * * * *

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1361, 1395 (26 U.S.C. 5114, 5146, 5207, 5555).)

2. Section 251.137 is amended to replace "assistant regional commissioner" with "regional regulatory administrator," to change the retention period from "not less than two years" to "not less than three years", to replace "internal revenue officers" with "ATF officers", to replace "director of customs" with "district director of customs," to add a provision that the regional regulatory administrator may require records to be kept for an additional period of not more than three years, and to make minor stylistic changes. As amended, § 251.137 reads as follows:

§ 251.137 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part to be submitted to the regional regulatory administrator or to the district director of customs, shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF or customs officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

[FR Doc. 78-12971 Filed 5-11-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 146a—CITIZEN EDUCATION FOR CULTURAL UNDERSTANDING PROGRAM

Awards of Grants and Contracts

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This regulation sets forth rules and criteria governing the award of grants and contracts to any public or private agency or organization to increase the understanding of students in the United States about the actions and cultures of other nations, and to enable these students to make informed judgments with respect to the international policies and actions of the United States. The regulation has no immediate effect because the program is unfunded.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provision therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Edward L. Meador, Director, Division of International Education, 7th and D Streets SW., Room 3907, Regional Office Building No. 3, Washington, D.C. 20202, 202-245-9692.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1976 amended Title VI of the National Defense Education Act of 1958 to provide for a Citizen Education for Cultural Understanding Program. Although it is anticipated that the program will not be funded in fiscal year 1977-78, the Office of Education, is required by statute, to develop regulations without regard to funding status.

Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40221-40223) setting forth regulations for this new program and requesting public comment on the proposed regulations. Of the more than 30 comments received, the majority of the commenters agreed that the regulations have defined the program sufficiently broadly for funds to be targeted in ways that provide maximum impact and that allow flexibility to individuals and institutions in developing their programs.

The following is a discussion of the comments received, with each comment followed by the response of the Office of Education.

SUMMARY OF COMMENTS AND RESPONSES

1. § 146a.1 PURPOSE AND SCOPE

Comment. Two commenters questioned why the regulations refer to students as the beneficiaries of this program. One commenter suggested that the word "citizen" would be an appropriate substitute for the word "student" so that businessmen, teachers, and administrators could also benefit from the program.

Response. This suggestion is not adopted. The reference to students is taken directly from Section 603 of Title VI of the National Defense Education Act, as amended which states, "The Commissioner is authorized * * * to stimulate locally designed educational programs to increase the understanding of students in the United States * * *" (emphasis added). However, the definition of student is sufficiently broad so as to include teachers, businessmen, administrators, etc, who are enrolled in an educational program.

Comment. Two commenters suggested that, in addition to the study of the

cultures and actions of other nations, the program should include the study of U.S. ethnic groups.

Response. This suggestion is not adopted. The legislation specifically states that this program is limited to programs about the cultures and actions of other nations.

Comment. One commenter was concerned that the stated purpose of the program excludes the possibility of examining the influence which policies of state governments have on U.S. foreign policy.

Response. This program is designed to have students learn about the cultures, policies, and actions of other nations so that the student can better understand our international relationships and the impact these relationships have domestically. Therefore, activities concerning the impact state governments may have on our foreign relationships are not included in this program.

2. § 146a.2 GENERAL AUTHORITY

Comment. Several commenters requested clarification of the word "local" specifically as it relates to the phrase "locally designed". Many commenters urged that its interpretation should not exclude (a) professional associations and organizations of national or regional scope or membership or (b) projects with regional and/or national applicability.

Response. The regulations place no restrictions on the scope or membership of applicant agencies or organizations that may apply for funds. Section 603(b) of the Act requires that programs be locally designed. Therefore projects under this authority must be designed to meet particular local needs. However, if a project meets particular local needs but also has regional or national applicability, that would not make that project ineligible. On the other hand, projects designed to be national or regional in scope would not be eligible for funding.

3. § 146a.6 PROJECT REQUIREMENTS

Comment. One commenter suggested that while § 146a.6(b) prohibits the development of new curriculum, the translation of materials for use in funded projects should be permitted.

Response. The Commissioner does not view the translation of materials as the development of curriculum, therefore such activities are permissible.

Comment. Several commenters noted that there appears to be an inconsistency between §146a.6(a)(2) and § 146a.6(b) since the commenters view the compilation of existing information and resources as a form of curriculum development; § 146a.6(a)(2) states that funds may be used for the compilation of existing information and resources but § 146a.6(b) states that funds may not be used for the development of new curriculum.

Response. The compilation of existing information and resources about other nations is authorized by the statute. For purposes of this program, the compilation of existing information and resources is therefore not the development of new curriculum.

Comment. One commenter asked whether program funds could be used to hire foreign nationals to serve as experts about their cultures and nations.

Response. Funds under this program may be used to hire foreign nationals.

Comment. One commenter asked whether program funds could be used for payment of travel and other expenses.

Response. Funds under this program be used for payment of travel and other expenses. The regulations have been amended to clarify allowable expenses for travel in § 146a.6(b)(1).

Comment. One commenter questioned whether § 146a.6(a) permits the use of funds for library acquisitions and for utilization of computer hardware and software in cataloging existing materials.

Response. Funds under this program may be used for library acquisitions and for the use of computer hardware or software. For example, fees for purchasing time on a computer, and for the use of existing computer programs, and for salaries and expenses related to personnel necessary to operate a computer, are allowable expenses under this program. However, funds may not be used for the acquisition of computers or any other type of equipment, either by purchase or rental, as indicated in § 146a.6(c). The regulations have been amended to clarify allowable expenses for the use of computer hardware or software in § 146a.6(b)(2).

Comment. Several commenters, for a variety of reasons, urged the elimination, revision, and/or expansion of the program requirements set forth in § 146a.6 feeling that these requirements place too many restrictions on this new program and do not reflect the intent of the legislation.

Response. The suggestions are not adopted. Section 146a.6 quotes the language of Section 603 of Title VI of the National Defense Education Act as Congress amended it in the Education Amendments of 1976.

4. § 146a.7 EVALUATION CRITERIA

Comment. One commenter asked for an example to clarify the phrase "appropriate segments of the local community".

Response. What is appropriate would depend on a particular project. For example, if a project focuses on elementary or secondary education in a given school district, it would be appropriate for the grant administrators to carry out the project in consultation and in cooperation with such segments of the community as the school board, and administrators and teaching staff of the school(s) in that district. Similarly, if a university plans an interdisciplinary program in multinational business, it would be appropriate for it to involve the international studies faculty, the business faculty, and area business interests.

Comment. Several commenters requested clarification of the phrase "maximum use of non-Federal resources".

Response. Non-Federal resources include components of the proposed program which do not require Federal financial assistance. Making maximum use of these resources means involving teaching personnel committed to and available for the project for whom Federal reimbursement is not requested, existing library resources and facilities, volunteer sevices, and other on-going activities of the applicant agency or organization which demonstrate a commitment to the additional activities proposed for Federal funding.

After consideration of all comments, Title 45 of the Code of Federal Regulations is amended by adding a new Part 146a, to read as set forth below.

NOTE.—The Officer of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: November 14, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 3, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Program No. 13.581, Citizen Education for Cultural Understanding Program.)

PART 146a—CITIZEN EDUCATION FOR CULTURAL UNDERSTANDING PROGRAM

Sec.
146a.1 Purpose and scope.
146a.2 General authority.
146a.3 Definitions.
146a.4 Eligible applicants.
146a.5 Applications.
146a.6 Project requirements.
146a.7 Evaluation criteria.

AUTHORITY: Sec. 603, Title VI of the National Defense Education Act of 1958 (20 U.S.C. 512a), as amended by sec. 302(b), Pub. L. 94-482 (Education Amendments of 1976), unless otherwise noted.

§ 146a.1 Purpose and scope.

(a) This part governs the awarding of Federal assistance to projects that

will increase the availability to students in the United States of information about the cultures, actions, and policies of other nations so that these students might make more informed judgments with respect to the international policies and actions of the United States.

(b) The assistance provided under this part is subject to the applicable provisions of Subchapter A of this Chapter, pertaining to fiscal, administrative, and other matters (General Provisions for Office of Education Programs, 45 CFR Part 100a).

(20 U.S.C. 512a.)

§ 146a.2 General authority.

The Commissioner may award grants and contracts for projects to stimulate locally designed educational programs to increase the understanding of students in the United States about the cultures, actions, and policies of other nations in order to allow them to better evaluate the international and domestic impact of major policies of the United States and other nations. The Commissioner may make these grants and contracts for projects at all levels of education including community, adult, or continuing educational levels.

(20 U.S.C. 512a.)

§ 146a.3 Definitions.

"Student" means any person enrolled in an educational program.

(20 U.S.C. 512a.)

§ 146a.4 Eligible applicants.

(a) Any public or private non-profit agency or organization, including but not limited to, institutions of higher education, State and local educational agencies, professional associations, educational consortia, and organizations of teachers is eligible to receive a grant or contract under this part. A profit-making organization is eligible to receive a contract.

(b) If an educational consortium applies for this assistance, is must include in its application (1) a description of the role of each member of the consortium in carrying out the project and (2) a written commitment from each participating member stating that it will perform the activities ascribed to it.

(20 U.S.C. 512a).

§ 146a.5 Applications.

(a) Eligible applicants that wish to apply for a grant or contract must file their applications with the Commissioner before the established closing date for such applications. Each application must contain (1) a description of the proposed activities and (2) sufficient information to enable the Commissioner to evaluate the application on the basis of the criteria set out in § 146a.7 and to determine whether the applicant will satisfy the project requirements set out in § 146a.6.

(b) Each applicant must assess the local need for the proposed project.

(20 U.S.C. 512a.)

§ 146a.6 Project requirements.

(a) Funds under this part may be used to carry out the following activities:

(1) The in-service training of teachers and other educational personnel with regard to the cultures, actions, and policies of other nations;

(2) The compilation of existing information and resources about other nations in forms useful to various types of educational programs; or

(3) The dissemination of information and resources pertaining to the cultures, actions, and policies of other nations to educators and education officials upon their request.

(b) Costs that are reasonably related to carrying out the activities listed in paragraph (a) (1), (2), and (3) of this section will be permitted. These costs may include: (1) Funds for salaries, supplies, travel and related expenses; and (2) Funds used for library acquisition and for the use of computer hardware or software.

(c) Funds may not be used for the development of new curriculum or the acquisition of equipment or remodeling of facilities.

(20 U.S.C. 512a.)

§ 146a.7 Evaluation criteria.

(a) In addition to evaluation on the basis of the criteria found in the Office of Education's General Provisions Regulations, 45 CFR 100a (26(b)), the Commissioner will also evaluate applications under this part on the basis of the following criteria:

(1) The extent to which appropriate segments of the local community were consulted on the development of the application;

(2) The degree to which the proposed project or program provides specifically for cooperation with appropriate segments of the local community; and

(3) The commitment of the agency or organization to the establishment and operation of the program as evidenced by maximum use of non-Federal resources (including financial support). Non-Federal resources include components of the proposed program, such as teaching personnel committed to and available for the project for whom Federal reimbursement is not requested, existing library resources and facilities, volunteer services, and other on-going activities of the applicant agency or organization which demonstrate a commitment to the additional activities proposed for Federal funding.

[FR Doc. 78-12972 Filed 5-11-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21481; RM-2899]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Dickinson and Williston, N. Dak. and Glendive, Mont.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns, and reserves for educational use, an additional VHF television channel to Williston, N. Dak.; substitutes television channels in Dickinson, N. Dak., and Glendive, Mont. By making these changes, most of the people in North Dakota would be assured of receiving noncommercial educational television service.

EFFECTIVE DATE: June 19, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER.—PROCEEDING TERMINATED

Adopted: May 5, 1978.

Released: May 10, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Dickinson and Williston, N. Dak. and Glendive, Mont.), Docket No. 21481, RM-2899.

1. On November 14, 1977, at the request of Prairie Public Television, Inc. ("petitioner"), licensee of noncommercial educational television Stations KFME, Channel 13, Fargo, N. Dak., and KGEE, Channel 2, Grand Forks, N. Dak., the Commission adopted a Notice of Proposed Rulemaking, 42 FR 59766, proposing the assignment of television Channel 4 and its reservation for noncommercial educational use at Williston, N. Dak. The proposal requires substitution and reservation of Channel 9 for reserved Channel 4 at Dickinson, N. Dak., and of Channel 13 for Channel 9 at Glendive, Mont. Supporting comments were filed by petitioner. Opposing comments were filed by Meyer Broadcasting Co. ("Meyer"), licensee of television Station KUMV-

TV, Williston, N. Dak., and television translator Station K09JY Channel 9, Glendive, Mont., and the Association of Maximum Service Telecasters, Inc. ("MST").

2. Williston, N. Dak. (pop. 11,280), seat of Williams County (pop. 19,301),[1] is located in northwestern North Dakota, about 32 kilometers (20 miles) east of the Montana border and 177 kilometers (110 miles) west of Minot, N. Dak. It has three television assignments: Channel 8 (KUMV-TV); Channel 11 (KXMD-TV); and Channel *15 (unoccupied and unapplied for).

3. Dickinson, N. Dak. (pop. 12,405), seat of Stark County (pop. 19,613), is located in southwestern North Dakota, about 96 kilometers (60 miles) east of the Montana border and 153 kilometers (95 miles) west of Bismarck, N. Dak. It has three television assignments: Channel 2 (KDIX-TV); Channel *4 (unoccupied and unapplied for); and Channel 7 (pending application (BPCT-4910), filed by Meyer Broadcasting Co.).

4. Glendive, Mont. (pop. 6,305), seat of Dawson County (pop. 11,269), is located in east central Montana about 48 kilometers (30 miles) west of the North Dakota border. It has three television assignments: Channel 5 (KXGN-TV); Channel 9 (occupied only by a 100 watt translator (K09JY) licensed to Meyer Broadcasting Co.); and Channel *16 (unoccupied and unapplied for).

5. Petitioner states it wants to bring noncommercial educational television service to the entire State of North Dakota, and if Channel *4 in Williston and Channel *9 in Dickinson were assigned as proposed, and its applications granted for all four channels[2], it would accomplish this purpose.

6. Channel 4 could be assigned to Williston provided the transmitter site is located at least 5 kilometers (3 miles) southeast of the community so as to meet the spacing requirement to Station CBKMT, Channel 4, Moose Jaw, Saskatchewan. In order to assign the substitute Channel 9 to Dickinson, the transmitter site must be located at least 7.3 kilometers (4.5 miles) southwest of the community to meet the spacing requirement to Station CKX-TV-02, Channel 9, Melita, Manitoba. In Glendive, Mont., Channel 13 could be substituted for Channel 9 in conformity with the spacing requirements provided the transmitter site is located 32 kilometers (20 miles) southwest of Glendive. Though a maximum facility television station could provide the requisite city-grade coverage from that distance, the translator station would not be able to serve the city from that site. K09JY's continued operation at its present site on Channel 13, would involve short-spacings. However, the extent of the separations [266 kilometers (166 miles) to KXMC-TV, Channel 13, Minot, N. Dak., and 300 kilometers (186 miles) to KSPD-TV, Channel 13, Eagle Butte, S. Dak.], indicate that no interference would be predicted to either station. Rather, any impact would be on the translator which has agreed to the change in channels if required not to move from its present operating location.

7. In comments, Meyer states it does not oppose the granting of petitioner's proposal provided Meyer's translator license at Glendive is amended to specify operation on Channel 13 and a waiver is granted so that it may continue to operate at its present location or continue to operate on Channel 9 at its present site. It asserts that it has provided the Glendive community with a valuable broadcast service which would not otherwise be available to the community. Meyer contends that any Commission action requiring it to relocate its translator to a different site, or to expose it to a competing application, would jepardize the continuation of this service to Glendive.

8. In reply, MST contends that it does not oppose the assignment of television channels provided the use of each channel is consistent with all distance separation requirements. In this case, it asserts, the operation of a high-powered translator on either Channel 9 or Channel 13 at the present Station K09JY location in Glendive would entail major short separations. It argues that, if Meyer wishes to continue a high-powered translator at Glendive, it could apply for a 1,000 watt UHF translator on Channel *16, which is assigned to Glendive and involves no short separation, or it can petiton for rulemaking to assign an unreserved UHF channel. MST notes that petitioner has indicated agreement with either Meyer proposal, and has even advocated a waiver of the rules for continued operation of a high-powered Channel 9 translator. However, MST asserts that private parties should not be permitted to waive the public's right to television service free from interference which the Commission's own standards would hold to be objectionable, citing *United Television, Inc.* 48 FCC 2d 265 (1974). MST asserts that the Table of Assignments should not be amended in anticipation of the grant of a waiver since such a procedure not only prejudges the waiver request but could provide precedent for other short-spaced assignments on the basis of subsequent waivers of the translator rules. MST has no objection to the assignment. Finally, MST urges that if the proposed assignments and substitutions of channels are made, the Commission should decline to modify the license of Station K09JY and should instead specifically state that a site must be selected to meet all distance separation requirements for new stations or new translator locations for existing stations on any of the assigned and affected channels.

9. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to assign Channel 4 for noncommercial educational use at Williston, N. Dak., and to substitute and reserve Channel 9 for Channel 4 at Dickinson, N. Dak.; and Channel 13 for Channel 9 at Glendive, Mont. By making these changes, the petitioner would be provided with an opportunity to bring noncommercial educational television service to important portions of the State of North Dakota. As stated in the Notice, the only impact these changes might have would be on translator Station K09JY operating on Channel 9 in Glendive. It has agreed to the change in channels, if not required to move from its present operating location. That, however, is not a matter which can properly be resolved through rulemaking. Rather, it should be raised in connection with the application translator Station K09JY needs to file as a result of our decision to substitute Channel 13 for Channel 9 at Glendive. The granting of waiver is not a prerequisite for the channel change as translators represent a secondary channel use which must yield as necessary to permit regular television operations. Finally, in this regard, even if waiver is granted for a short-spacing, this has no bearing on the use of the channel for a full fledged operation, as any television broadcast station that would operate on Channel 13 at Glendive, must comply with the mileage separation requirements. Likewise, any station on Channel 9 in Dickinson must also comply with the mileage separation requirements.

10. The concurrence of the Canadian Government has been obtained on all of the proposals.

11. Accordingly, 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 June 19, 1978, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended for the cities listed below to read as follows:

City	Channel No.
Dickinson, N. Dak.	2+, *9−, 7
Williston, N. Dak.	*4, 8−, 11−, *15−
Glendive, Mont.	5+, 13+, *16−

[1]Population figures are taken from the 1970 U.S. Census.

[2]Petitioner also intends to file applications for construction permits for new noncommercial educational television stations on Channel 3 at Bismark and Channel 6 at Minot, N. Dak.

12. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13007 Filed 5-11-78; 8:45 a.m.]

[Docket No. 21511; RM-2752]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station Harrison, Ark.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Harrison, Ark. The channel assignment provides for a second FM station which could provide a third local aural broadcast service to the community.

EFFECTIVE DATE: June 19, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: May 5, 1978.

Released: May 8, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Harrison, Ark.), Docket No. 21511, RM-2752.

1. The Commission has before it the *Notice of Proposed Rulemaking,* 42 FR 1513, proposing the assignment of Channel 244A to Harrison, Ark., as its second FM assignment. The proceeding was instituted on the basis of a petition filed by Charles E. Bowman and Don E. Loveland ("petitioners"). Supporting comments were filed by petitioners reaffirming their intention to file for the channel, if assigned, and their willingness to compete under such circumstances. No oppositions were received.

2. Harrison (pop. 7,239), in Boone County (pop. 19,073),[1] is located in northwestern Arkansas, 176 kilometers (110 miles) northwest of Little Rock. It presently receives local service from Station KHOZ-FM (Channel 275), and daytime-only AM Station KHOZ, both licensed to Harrison Broadcasting Corp.

3. Petitioners state that Harrison's population has increased 23 percent during the last 5 years. They assert that the area's economy depends on agriculture, light manufacturing and leisure industry. Petitioners note that food processing, wood products, apparel, electrical, and plastic manufacturing are the major industries. In support of its proposal, petitioners have submitted letters from local officials and citizens indicating their support for the proposed assignment.

4. Petitioners show that there is no Class C channel available for assignment to Harrison, but they state that the proposed Class A FM channel could be used to provide a second FM and second nighttime aural service to 10,800 persons residing in an area of 15,000 square kilometers (580 square miles). Preclusion would occur only on Channel 244A, affecting a small area in which Harrison is located.

5. While the proposed assignment would contravene the usual policy of avoiding intermixture of a Class A with a Class C channel in a particular community, we have deviated from this policy when there is no Class C channel available for assignment and there is a demand for a Class A channel and there is a willingness to compete under such circumstances. Yakima, Wash., 42 FCC 2d 548, 550 (1973); Key West, Fla., 45 FCC 2d 142, 145 (1974). There is no Class C FM channel that could be assigned to Harrison, and petitioner has expressed a desire to apply for Channel 244A at Harrison in spite of the intermixture situation. We believe it is in the public interest to make the assignment which would provide a second local FM service to the community.

6. In view of the foregoing: *It is ordered,* That effective June 19, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City and Channel No.
Harrison, Ark.; 244A, 275.

7. Authority for the action taken herein is 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.

8. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13008 Filed 5-11-78; 8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the African Elephant as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the African elephant (*Loxodonta africana*) to be a Threatened species. Special regulations are issued for importation of and interstate commerce in this species. These regulations represent a modified and more restrictive version of Option II of the Service's proposed rulemaking of January 16, 1978. Ivory and other African elephant products will be able to enter the U.S. only if exported under specified conditions from countries that are parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. A review of the status of the African elephant has shown that it is declining in may parts of its range and that illegal poaching for ivory is a factor in the decline. It is anticipated that this rule will provide additional protection to the species.

DATE: This rule will become effective on June 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The African elephant has a long history of conflict with and exploitation by man. Even during the era of the Romans some elephant populations were depleted through the taking of animals for ivory or entertainment purposes. In modern times, elephants were exterminated in large parts of their range by ivory hunters and pressure from growing human populations. After passage of the Endangered Species Act of 1973, the Service came to consider the African elephant as a possible candidate for listing in the new Threatened category provided by the Act. The Service has been especially concerned about reports that the species was declining rapidly in some

areas, partly because of intensified killing for ivory.

On August 18, 1977, the Service was petitioned by the Fund for Animals (1765 P Street NW., Washington, D.C. 20036) to "protect the African elephant as an endangered species." The Service decided that this petition presented insufficient data on which to base an immediate proposed rulemaking, and also rejected the idea that the status of the species was so desperate as to warrant listing in the highly restrictive Endangered category. The best available information indicates that there are at least 1.3 million of these animals still in existence, and that there still are some large, apparently well-protected populations.

On November 23, 1977, the Service telegrammed Dr. Iain Douglas-Hamilton, Chairman of the Elephant Specialist Group of the International Union for Conservation of Nature and Natural Resources (IUCN). Dr. Douglas-Hamilton has completed two years of a three-year survey of the African elephant, sponsored by the IUCN and World Wildlife Fund. He is a highly respected authority on the biology and conservation of the species, and is in continuous contact with numerous other experts. Through detailed correspondence and his own field investigations, he has assembled an immense amount of information, covering all major parts of the range of the elephant. The Service considers him to be the best available source for data on the general status of the species. On December 8, 1977, Douglas-Hamilton cabled a summary of his data to the Service, and subsequently, at the expense of the U.S. Government, he personally traveled to Washington, D.C., to present information to the House Merchant Marine and Fisheries Committee, and to the staff of the Service's Office of Endangered Species. On the basis of this information and the Service's own review of pertinent literary references, the African elephant was proposed for listing as a Threatened species in the FEDERAL REGISTER of January 16, 1978 (43 FR 2193-2196). New information and comments received following the proposal have not altered the Service's view that this classification is warranted for the elephant, because of its history of exploitation, considerable loss of habitat and range, and recent drastic declines in some areas.

In its proposal, the Service stated that it recognized "that the conservation of the elephant is intimately associated with the ivory trade. It would be advisable to carefully control commercial activity for the welfare of the species, and quite possibly for the ultimate benefit of the trade itself. Nevertheless, it may not be advisable to completely stop commerce or, insofar as can be accomplished by the Service, importation into the United States. Substantial amounts of ivory are collected from elephants that die of natural causes or are killed legally to protect human life or property. A limited number of elephants can be killed each year, and their ivory used, without detriment to overall populations. The sale of such ivory could result in extra funds for conservation programs, or at least could provide an economic incentive for such programs. On the other hand, legal sales may stimulate poaching, and it may be impossible to determine how a particular product was obtained."

Because of the difficulty in formulating appropriate conservation measures, the Service issued a series of options that could be considered by the public, scientific community, government officials, and commercial interests. The Service indicated that in any final rulemaking it might issue a variation of one or more of these options, or other reasonable measures that were in accord with sound conservation principles.

Option I simply would have applied all the standard prohibitions (and permit exceptions) for Threatened species to the African elephant, and so essentially would have ended legal commercial import of ivory and other elephant products into the United States. Option II would have allowed importation and other utilization of elephant products from nations that were party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Option III would have allowed importation only from nations providing satisfactory certification and evidence that exports to the United States were consistent with effective conservation programs for the elephant. Option IV would have provided for importation from countries meeting the criteria of Option II or III, and from countries that might not have elephant populations, but which could demonstrate that the product involved originated in a nation meeting the criteria of Option II or III.

SUMMARY OF COMMENTS

Approximately 580 of the persons who responded to the proposal during the designated comment period supported Option I or even more restrictive measures for the protection of the African elephant. Approximately 207 persons indicated that their livelihood was totally or partly dependent on ivory, and that they were opposed to a complete ban on its importation and interstate movement. Almost all of these persons, however, observed that they did not consider their business to be detrimental to the elephant, and that they would favor measures to insure that only ivory taken legally and in accordance with sound conservation practices could be imported; about 155 of these persons indicated support for Option III. Approximately 90 other parties also supported Option III. In addition, about 50 persons wrote to express concern that a ban on ivory importation would adversely affect the economic status of some people, but did not indicate that they were referring to themselves, and did not express support for a particular option. Approximately 35 parties suggested that any ban on importation of elephant products should not apply to trophies taken legally by big game hunters. Approximately 50 persons expressed the view that the elephant was not Endangered or Threatened, and did not indicate that they preferred any particular option for regulation.

Among the parties supporting Option I, or comparative measures, were the Defenders of Wildlife; Earthforce Environmental Society (which, based on extensive interviews with authorities in Kenya, Tanzania, and Zambia, recommended a total ban for six months, followed by implementation of Option II); Elsa Wild Animal Appeal; Fund for Animals; Natural Resources Defense Council; Mr. Thomas O. Nicholson, Director of the American Museum of Natural History; Mr. R. Marlin Perkins, Acting Director of the Wild Canid Survival and Research Center; U.S. Representative Anthony C. Beilenson of California; U.S. Representative G. William Whitehurst of Virginia; State Senator George Rogers of New Bedford, Massachusetts; and the following member organizations of the Monitor Consortium: Fund for Animals, Animal Welfare Institute, Humane Society of the United States, Rare Animal Relief Effort, National Parks and Conservation Association, Society for Animal Protective Legislation, Let Live, Washington Humane Society, International Primate Protection League, Committee for the Preservation of the Tule Elk, Massachusetts Audubon Society, and Connecticut Cetacean Society. Most of these parties pointed out that any option, other than Option I, might allow opportunity for considerable smuggling and other abuse of the regulations. Congressman Beilenson, for example, wrote that the basic problem with the other options "arises from the difficulty in obtaining satisfactory documentation showing that the product came from an elephant killed legally in an exempt country of origin. Efforts to enforce a selective prohibition on imports would depend entirely on the ability of Customs and the U.S. Fish and Wildlife Service inspectors to determine the authenticity and accuracy of the required documents * * *. The enforcement officials feel that there is a much higher incidence of falsified or inaccurate documents than they can

uncover. Thus, efforts to implement regulations requiring documentation are difficult, and the difficulties may be insurmountable". Congressman Beilenson, however, also recommended "that the Department establish a procedure under which African nations with legitimate claims of hardship can petition for an exemption. These can then be dealt with on a case-by-case basis, and precise quotas for direct shipment of ivory and other products could be established in line with those nations' conservation programs."

Such an approach would seem to be a modified version of Option III, and would involve U.S. analyses and approval or disapproval of the conservation programs of foreign nations. As stated above, there is no established mechanism for such procedures, and the Service does not consider them to be necessary at this time.

Although nearly all African nations, and several of the major ivory reexporting countries, were officially notified of the proposal, responses were received from only eight foreign governments. Liberia, noting that the elephant had become rare because of poaching, favored Option I. Botswana, Mozambique, and Rhodesia stated that the elephant was not endangered or threatened in their territory, that they had effective conservation programs for the species, and that a ban on ivory export would be detrimental to their economies. Support for Option II was received from the following parties in the Republic of South Africa: Secretary for Planning and the Environment, National Parks Board of Trustees, and Kruger National Park. Tanzania, which reported a large, adequately protected elephant population, indicated preference for both Options II and III, and noted that it would very soon ratify the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Zambia stated that it had a large elephant population that could sustain a considerable annual take for ivory, and that Option III would be most suitable. Hong Kong supported Option IV, observing that its ivory carving industry provided employment for 3,000 craftsmen and had sent 30 percent of its $24,000,000 of exports in 1977 to the United States.

Option IV also was supported by the Endangered Wildlife Trust (Republic of South Africa), the American Association of Zoological Parks and Aquariums, and the IUCN Elephant Specialist Group. The comments of the latter party, submitted by Dr. Iain Douglas-Hamilton, explained that it would be preferable for the United States to remain involved with the ivory trade, and so have the means of helping to regulate and control such trade.

The National Wildlife Federation suggested that the United States limit its importation of ivory to raw ivory directly from the country of origin, and accompanied by export permits and documentation showing that such export would not be detrimental to the population. It was pointed out that whole tusks, unlike manufactured products, can be easily traced and their movement controlled. It also was explained that such tusks often became available through natural death, necessary cropping, or confiscation, and that their sale could provide funds for conservation measures. The Service understands this position, but considers that any plan involving required documentation for a conservation program essentially involves a version of Option III, which has been rejected for reasons set forth above. Limitation of import to whole tusks may indeed make enforcement easier, but the Service is not at this time prepared to state that a ban on manufactured products is in itself necessary for the conservation of the elephant. Reexporting nations, that are willing to follow the provisions of the International Convention, as implemented by the regulations issued herewith, in their own importation and utilization of ivory, should not be denied the opportunity to trade with the United States, unless specific circumstances warrant a change in policy.

The National Rifle Association of America opposed the proposed listing measure, because of the following given reasons: (1) the proposal allegedly stated that the ivory trade was the principal reason for the decline of the elephant, when actually other major factors were involved; (2) the proposal did not present substantial evidence warranting a threatened listing; (3) the draft impact assessment prepared in conjunction with the proposal was inadequate, and an environmental impact statement was required; (4) the Service did not prepare a "regulatory analysis" as was allegedly required by a Proposed Executive Order issued November 18, 1977; and (5) all four of the published options were defective as a matter of law or should be rejected as a matter of policy. In response, the Service considers that the information contained in the proposal, and in this rulemaking, adequately supports the listing measures, and makes it clear that the ivory trade is not the only major factor of concern. The Service feels that all requirements of law have been met in the preparation of the final rulemaking, and that the regulations selected are both legally appropriate and meaningful to the conservation of the elephant. The points made by the National Rifle Association have been considered in the preparation of the final version of the impact assessment.

The Safari Club International, the Safari Club International Conservation Fund, and the American Hunters' Educational and Legal Protection Fund submitted a joint response. A total ban on importation of elephant products was opposed as being detrimental to the economies of several African countries and unnecessarily restrictive to American trophy hunters. Legitimate sport hunting was not considered a threat to the elephant and was said to actually be beneficial to the species by providing an economic incentive to maintain populations and a means of guarding against poaching. It was proposed that the elephant be listed as threatened only in certain African countries where the situation reportedly warranted such a measure, and that export from such countries be allowed in the case of legitimate trophy hunters, nations that had ratified the International Convention, and nations that provided certification of adequate conservation programs. The Service appreciates the effort involved in preparing this detailed plan, but does not consider it more advantageous than that published herein. The Service prefers to deal with the African elephant as a single entity and to determine a classification expressing its overall status. The history and current problems of the species call for a threatened listing. The International Convention provides a mechanism for controlling the export of the elephant, and so long as this mechanism is functioning properly, there is no call for the United States to set up more, or less restrictive measures.

The American Ivory Importers Association, one concern of which is the movement of ivory products from Hong Kong, opposed Options I and II as being unnecessary and possibly detrimental to the conservation of the elephant, and as adversely affecting the economic interests of some African countries. The Association suggested a modified version of Option III, which would add provisions for reexport. There would be an initial U.S. evaluation of the conservation programs of African nations, and export would be allowed only directly from those countries approved, or from reexporting nations that could demonstrate that the product involved had originated from an approved African country. It was suggested that certificates of origin be issued by the U.S. consulate in the source country, and that all manufacturers and importers be required to maintain detailed records to facilitate investigation. The Service appreciates the interest of the Association in insuring that ivory exports are not detrimental to elephant populations, but considers that the existing control mechanism of the International Convention would be more advantageous than newly imposed measures. The suggestion that manufacturers and importers maintain adequate rec-

ords could just as well apply to an Option II situation.

Mr. Kenneth N. Enright, managing director of Midwest Distributors of Urbana, Ill., a firm involved in the importation of raw ivory, submitted a detailed response stating that the African elephant was not seriously threatened and that claims of the detrimental effects of the ivory trade had been greatly exaggerated. He pointed out that warnings of the imminent extinction of the elephant, because of the take for ivory, had been made nearly a century ago, but that the species was still abundant and even increasing in some areas. The utilization of ivory was said to have actually declined in recent years, and since the 1960's many firms involved in the trade reportedly had left the business. Within the United States, however, there still were about 3,170 persons said to be "engaged, wholly or in part, in the manufacture of articles, artwork or jewelry based on raw ivory." Mr. Enright disputed widely circulated statements that the price of ivory had increased tenfold in recent years, and stated that the Service should not have based its proposal on such a factor. He presented documentation suggesting that the average price paid by his own firm had increased only about fourfold since the late 1960's, and noted that part of the increase had been caused by such factors as rising taxes and transport costs, rather than higher profits for suppliers. Although acknowledging that there were problems in some parts of the elephant's range, he stated that the amount of ivory being used in the trade was not excessive. He recommended that the U.S. continue to allow the importation of legally taken whole tusks from African nations, and from those reexporting nations that had ratified the International Convention. He observed that it would be easy to control commerce in whole tusks, but that there should be a temporary ban on the importation of manufactured goods from reexporting countries.

The Service is impressed with the effort that undoubtedly went into Mr. Enright's response, but disagrees with the suggestion, to which much of this response is devoted, that the proposed rulemaking was based mainly on the belief that rising prices were jeopardizing the African elephant. The proposal and this final rulemaking make it clear that the elephant is considered threatened because of a decline in numbers and distribution resulting from a variety of factors, among which is exploitation for ivory. The price being paid for the ivory is an incidental factor and is not in itself a major reason for listing. The Service continues to hold that available evidence shows that exploitation for ivory has been and is a problem for some elephant populations, and that it is advisable to place controls on commercial activity involving the United States.

Conclusion

The Service has decided to reject Option I, considering that a total ban on international and interstate commercial activity in ivory and other products is not in itself necessary for the conservation of the African elephant. If such factors as natural mortality and the need to relieve excessive population pressures in certain areas are taken into account, there seems no doubt that a substantial amount of ivory and other products, and a certain number of big game trophies could be taken on a regular basis without being detrimental to the overall status of the species. The Service recognizes that problems could develop in verifying that the particular items to be imported or sold were taken in accordance with proper conservation programs, and that there may be some basis for the argument that merely allowing the ivory trade to function will encourage some poaching and ill-advised exploitation. No substantive basis, however, has been presented to show that such problems, particularly if mitigated by the regulatory measures herewith provided, would be insurmountable or would result in significant declines of elephant populations. The Service also has considered the argument that some commercial and sporting take gives an economic incentive for the maintenance of the species. While not yet convinced that such a position is fully valid, the Service is willing to allow the benefit of the doubt, within the scope of the regulations now being issued.

Option III, and the several variations thereof suggested by respondents, also have been rejected. Option IV likewise has been rejected, because it incorporated the provisions of Option III. No mechanism has been established to implement such measures, and they would have put the United States in the difficult position of evaluating and passing judgement on the conservation and law enforcement policies of foreign nations. The comments of some respondents, including certain African governments, suggest that the Service did not sufficiently explain the implications of Option III. This measure would not have required simply a certificate stating that export of a particular item was in accord with an effective conservation program, but probably would have involved detailed U.S. investigation of the involved program. It is likely that the immediate effect of Option III would have been a total ban on importation of elephant products. Individual nations then would have had to provide evidence to the Service, which could have been used for an assessment and decision on whether import could be allowed. The Service now thinks that such measures would not be practical, and would not be necessary since the means of receiving certification of the effectiveness of foreign conservation and legal policies already exists in the form of the International Convention.

The Service has decided to adopt a modified version of Option II, which will allow importation to the U.S. of African elephants and products thereof which have originated in the wild in a country that is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and have been exported from such country of origin, and in any case of reexportation have been reexported, in accordance with Article IV of such Convention (compliance with Article VII, Paragraphs 2 or 3 of such Convention will not constitute compliance with this provision); and have remained in customs control and in an unaltered condition in any country not a party to such Convention that they enter while in transit to the United States. A special purpose permit may be issued in accordance with the provisions of 50 CFR 17.32 authorizing any activity otherwise prohibited with regard to the African elephant, upon submission of proof that such wildlife was already in the United States on the effective date of this rulemaking, or was imported into the United States in accordance with the above provisions.

The African elephant is on Appendix II of the Convention, which means that when exported from a member nation a permit must be issued certifying that the item involved was taken legally and that its export is not detrimental to the survival of the species. Article IV, however, does more than merely require issuance of a written certificate. It calls for the establishment of a scientific authority in the nation of origin, which is to advise on whether export is detrimental, and for the establishment of a management authority to determine that the laws of the nation are followed.

The regulations issued herewith take advantage of the mechanism established by the Convention. Moreover, these regulations specify that the original export and any subsequent reexports must comply with Article IV. A nation that is a party to the Convention may reexport elephant products to the United States, but only if the involved material had been derived from an African country that had wild elephants and that was party to the Convention, and had been exported from such country of origin in accordance with Article IV. No ivory should enter the United States that is not derived from elephants living wild in nations that are party to the Con-

vention. In the case of African elephants and products thereof that enter the U.S. in accordance with these provisions, or which already are in the U.S. on the effective date of this rulemaking, permits may be issued to allow interstate commerce or any activity otherwise prohibited.

The Service is aware that there have been questions regarding the validity and substance of some export permits issued relative to the Convention. At this time, however, there is no basis for restricting the importation of elephant products from any current or future Convention member, so long as the provisions of the regulations are followed. The Service considers that the pledges made by a sovereign nation, when entering into an agreement with fellow countries for the common good of all, are not to be taken lightly, and that any member nation must be assumed to intend to comply fully with the obligations imposed by Article IV and the other portions of the Convention.

It is not the intent of the Service to either deny commerce to any particular nation that is not a Convention member, or to attempt to pressure any nation to become a member. The Service does encourage all nations to consider membership and establishment of the regulatory bodies called for by the Convention. The immediate objective of the Service, however, is only to find a practical means of insuring that the entry of African elephant products into the United States is not detrimental to the survival of wild populations. The Convention, through its provisions for an international framework of control, the establishment of a common system of regulatory authorities in all member nations, and pledges made at the highest level of Government to numerous fellow nations, now appears to offer the best method.

Summary of Factors Affecting the Species

Section 4(a) of the Act states that the Secretary of the Interior may determine a species to be Endangered or Threatened because of any of five factors. These factors, and their application to the African elephant, are listed below.

1. *The present or threatened destruction, modification or curtailment of its habitat or range.* The African elephant originally occupied all of Africa, except for extremely dry areas, and it probably inhabited the territory of every existing nation on the continent. Its range once included the Mediterranean coast, the lower Nile Valley, and possibly parts of southwestern Asia, but it probably had been exterminated in these areas by about 2,000 years ago. More recently, the species has disappeared in the countries of Afars and Issas, Gambia, Guinea-Bissau, Lesotho, Swaziland, and Western Sahara. The elephant still occurs in all other African countries to the south of the Sahara Desert, but its range has been restricted considerably in most of them. This is especially true in western and southern Africa, where the species has held out in remote border areas or in small, isolated patches of suitable habitat. Throughout nearly its entire remaining range, however, the elephant is progressively losing habitat to the expanding human population and associated agricultural development. Many elephants are killed directly because they are considered a threat to man and his crops and settlements, and others die because remaining habitat cannot support them. Certain elephant "population explosions" have received much publicity, but these often are associated with forced crowding imposed by man, and, in any case, represent only a small percentage of the overall range of the species.

According to information provided by Douglas-Hamilton, the African elephant is known to be declining in 18 of 33 countries where it still survives, and in five of these the decrease is rapid. In two other countries, with comparatively small remaining populations, there is a decline in some areas, but an increase in others. Of the other countries, no data are available for eight, populations are reportedly stable in four (though three of these have only small remnant populations), and numbers are increasing in one (Somalia).

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Because of its ivory, the African elephant is among the world's most commercially valuable animals. The species has been hunted for this purpose since ancient times, but exploitation greatly increased as Africa was opened to the outside world in the nineteenth and twentieth centuries. According to Douglas-Hamilton, ivory hunting, mainly illegal, is the greatest immediate threat to the species. For example, poaching appears to have been largely responsible for a drastic reduction of elephants in Uganda, and for eliminating about half of the elephants in Kenya, since the early 1970's. The still substantial populations in eastern and central Africa are threatened with further reduction, and the remnant populations in western Africa could be entirely wiped out, if large scale poaching continues.

3. *Disease or predation.* Not major factors in current situation.

4. *The inadequacy of existing regulatory mechanisms.* It always has been difficult for most African nations to enforce wildlife laws, because of a lack of funds and trained personnel, and because of the vast, remote areas that are involved. With a considerable rise in the price of ivory in the early 1970's, there was a greater incentive for many more people to carry out illegal hunting and trade, and local enforcement measures became ineffective in some areas. In addition, there seems to be little regulation of international commerce. Large quantities of illegally taken ivory apparently have been sent out of African countries and purchased overseas. According to Douglas-Hamilton, the ivory trade is not well understood and is in need of extensive investigation. He states that strict application of the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora would be helpful. Relatively few of the major ivory exporting and importing countries, however, are now members of the Convention. If through the Convention or other procedures, means could be found to insure that only lawfully taken ivory could be imported by other countries, the incentive for poaching would be greatly reduced.

5. *Other natural or manmade factors affecting its continued existence.* None now known to be significant.

Effects of the Rulemaking

This rulemaking designates the African elephant as a threatened species, and promulgates a special regulation applying the provisions of 50 CFR 17.31, and additional provisions relative to the importation and utilization of elephant products. The prohibitions of 50 CFR 17.31, with respect to foreign species, are essentially the same as those for endangered species, as set forth in Section 9(a)(1) of the Act and implemented by 50 CFR 17.21. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species (except as provided in the regulation). It also will be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. In accordance with 50 CFR 17.32, permits for threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. Economic hardship permits could, under certain conditions, allow persons who had already contracted to perform an otherwise prohibited action to carry out the terms of their contract.

The prohibition against importation incorporated into 50 CFR 17.31 will not apply to African elephants and products thereof which have originated in the wild in a country that is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; *and* have been

exported from such country of origin, and in any case of reexportation have been reexported, in accordance with Article IV of such Convention (compliance with Article VII, Paragraphs 2 or 3 of such Convention will not constitute compliance with this provision); *and* have remained in customs control and in an unaltered condition in any country not a party to such Convention that they enter while in transit to the United States. A special purpose permit may be issued in accordance with the provisions of 50 CFR 17.32 authorizing any activity otherwise prohibited with regard to the African elephant, upon submission of proof that such wildlife was already in the United States on the effective date of this rulemaking, or was imported into the United States in accordance with the above provisions.

Therefore, the rulemaking provides for possible interstate commerce and other use of future imports, as well as for continued utilization of existing ivory stocks and other products now in the United States. There will be no effect on importation of African elephants and products thereof that originated in nations that are party to the Convention, provided that exportation from such nations complied with Article IV of the Convention. Reexporting countries that are Convention members will be able to continue to send products to the United States, if it can be demonstrated that such products had originated in the wild in a country that is a party of the Convention, and that the original export had been in accordance with Article IV.

These exemptions, none of which are expected to adversely affect wild elephant populations, will allow continued importation of ivory and hunting trophies under prescribed conditions. It is likely, however, that there will be an initial reduction in the amount of raw and worked ivory entering the United States, because some of the major exporting and reexporting nations are not Convention members. The only nations with populations of African elephants, that are Convention members, are Nigeria, Republic of South Africa, Niger, Ghana, Zaire, Senegal, and Botswana. Tanzania, however, has informed the Service that it will ratify the Convention very soon. When it does, two of the three countries (Tanzania, Zaire, Zambia) with the largest elephant populations will be eligible to export to the United States. As additional African nations join the Convention, the potential supply of exports would increase. Hong Kong, which is covered by the Convention through the membership of the United Kingdom, is currently the largest reexporter of ivory to the United States.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. The assessment is the basis for a decision that this rulemaking is not a major Federal action which would significantly affect the quaility of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, 202-343-7814.

Regulations Promulgation

Accordingly, Subparts B and D of Part 17, Title 50 of the Code of Federal Regulations, are amended as set forth below:

1. Section 17.11 is amended by adding, in alphabetical order under "MAMMALS," the following to the List of Endangered and Threatened Wildlife and Plants:

§ 17.11 Endangered and threatened wildlife.

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion endangered	Status	When listed	Special rules
Mammals:							
•	•	•	•	•	•	•	•
Elephant, African.	*Loxodonta africana*	N/A	Africa	Entire	T		17.40(e)

2. Section 17.40 is amended by adding a new paragraph (e) which reads as follows:

§ 17.40 Special Rules—Mammals.

• • • • •

(e) African elephant (*Loxodonta africana*)—(1) Except as provided in subparagraphs (2) or (3) of this paragraph, the prohibitions incorporated into § 17.31(a) shall apply to any African elephant, alive or dead, and to any part, product, or offspring thereof.

(2) The prohibition against importation referred to in paragraph (e)(1) of this section shall not apply to any such wildlife which:

(A) Has originated in the wild in a country that is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, March 3, 1973, TIAS No. 8249; and

(B) Has been exported from such country of origin, and, in any case of reexportation has been reexported, in accordance with Article IV of such Convention: *Provided that:* Neither compliance with Article VII, Paragraph 2 of such Convention nor compliance with Article VII, Paragraph 3 of such Convention shall constitute compliance with this subparagraph (2)(B); and

(C) Has remained in customs control and in an unaltered condition in any country not a party to such Convention that it enters while in transit to the United States.

(3) A special purpose permit may be issued in accordance with the provisions of § 17.32 authorizing any activity otherwise prohibited with regard to such wildlife, upon submission of proof that such wildlife was already in the United States on June 11, 1978 or that such wildlife was imported into the United States in accordance with subparagraph (2).

Dated: May 8, 1978.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 78-12854 Filed 5-11-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC FISHERIES: HADDOCK, COD, YELLOWTAIL FLOUNDER

Emergency Regulations Repromulgated

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency regulations.

SUMMARY: The Assistant Administrator has determined that the emergency which required the March 31, 1978 promulgation of emergency regulations for the Atlantic groundfish fishery continues to exist. This rule extends these emergency regulations, as amended, for an additional 45 days, from May 18, 1978 to June 30, 1978, inclusive. The public comment period for the original proposed regulations published on March 31, 1978, as amended, is extended to June 2, 1978, in order to avoid confusion.

EFFECTIVE DATES: 0001 hours e.d.t., May 16, 1978. The public may submit written comments on the March 31, 1978 proposed regulation, as amended, until June 2, 1978.

ADDRESS: Comments may be addressed to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. William C. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: On March 31, 1978, the Assistant Administrator for fisheries, National Oceanic and Atmospheric Administration, published emergency regulations in the FEDERAL REGISTER (43 FR 13578) to implement the fishery management plan for 1978 prepared by the New England Fishery Management Council for Atlantic groundfish. Those emergency regulations were subsequently amended twice. The first amendment, which was published in the FEDERAL REGISTER on April 10, 1978 (43 FR 14968), abolished the open, directed fishery for cod in an effort to relieve some fishing pressure on that species, thereby reducing the probability of a closure near the end of the allocation period. The second amendment, which was published on April 24, 1978 (43 FR 17361), changed the daily trip limitation on both cod and haddock to a weekly limitation. This amendment also provided a method for the lawful landing of excessive quantities of cod and haddock in order to minimize the discard problem, thereby enhancing the conservation of those species. Both amendments had been adopted by the New England Fishery Management Council at the March 22-23, 1978 meeting and were approved by the Assistant Administrator. These amendments are continued with the original emergency regulations, which the Assistant Administrator has determined should be continued for an additional 45 days as authorized by section 305(c) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq, as amended, because the Assistant Administrator finds and determines that the emergency which required the March 31, 1978 promulgation of emergency regulations continues to exist. The Secretary also finds that formal notice of proposed rulemaking is impractical, unnecessary, and contrary to the public interest because of the emergency described above.

Therefore, the emergency regulations adopted on March 31, 1978, as amended on April 10, 1978, are continued in full force and effect for an additional 45 days beginning 0001 hours EDT, May 16, 1978, and ending 2400 hours EDT, June 30, 1978, unless sooner amended or terminated by appropriate notice.

The public comment period has been extended to June 2, 1978, for the original proposed final regulations published on March 31, 1978, the first amendment published on april 10, 1978, and the second amendment which was published on April 24, 1978, in order to avoid confusion.

Signed at Washington, D.C., this 9th day of May 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine fisheries Service.

[FR Doc. 78-13174 Filed 5-11-78; 10:00 am]

proposed rules

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

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Miscellaneous Amendments; Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Proposed Rule.

SUMMARY: This proposed amendment adds two new sections to the regulations under the Virus-Serum-Toxin Act regarding the requirements for purity, safety, potency, and efficacy to be met by all biological products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine, and one new section which contains a purity test for the detection of chlamydial agents. It also revises the cat safety test prescribed in the regulations for testing vaccines recommended for use in cats by adding an additional test to be used in testing Master Seed Virus. At the present time, such requirements and tests appear in each Outline of Production for such products filed with Veterinary Services. This amendment would make uniform requirements and tests available to all licenses.

DATE: Comments must be received on or before July 12, 1978.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The Standard Requirements found in Part 113 of the regulations consist of test methods, procedures, and criteria established by Veterinary Services for evaluating biological products for purity, safety, potency, and efficacy. Until such Standard Requirements are developed by Veterinary Services and are codified in the regulations, the test methods, procedures, and criteria used in the evaluation of a product are developed by the licensee and are written into the applicable Outline of Production which is required to be filed with Veterinary Services.

When Standard Requirements for evaluating a biological product have been developed by Veterinary Services, they are proposed for codification in the regulations. Such codification assures uniformity and general availability of such Standard Requirements to all licensees and to the general public. This proposed amendment adds two new sections to the regulations containing the Standard Requirements for evaluating all licensed products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine.

When the same test methods or procedures can be used in Standard Requirements regarding more than one product, they are codified in one section of the regulations and incorporated by reference in other sections. Section 133.39 is such a section and it contains a cat safety test used to evaluate vaccines recommended for use in cats. This proposed amendment contains a revision of that section which adds a second cat safety test for use in evaluating Master Seed Virus used to make vaccines recommended for use in cats.

This proposed amendment also adds a new section to Part 113 in which a purity test for chlamydial agent (a form of microorganism) contamination is provided. Reference to this test will be made in Standard Requirements for vaccines recommended for cats.

The first letter of each word in the headings for §§ 113.149 and 113.150 shall be capitalized.

1. Section 113.39 is amended by revising the introductory portion, by revising paragraph (a), by adding new paragraphs (a)(1) and (a)(2), and by adding a new paragraph (b) to read:

§ 113.39 Cat safety tests.

The safety tests provided in this section shall be conducted when prescribed in a Standard Requirement or in the filed Outline of Production for a biological product recommended for use in cats.

(a) The cat safety test provided in this paragraph shall be used when the Master Seed Virus is tested for safety.

(1) The test animals shall be determined to be susceptible to the virus under test as follows:

(i) Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of the virus. Blood samples shall also be drawn and individual serum samples tested for antibody to the virus.

(ii) The cats shall be considered susceptible if swabs are negative for virus isolation and the serums are free of virus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other serum-neutralization test of equal sensitivity.

(iii) When determining susceptibility to a virus which does not lend itself to the methods in subparagraphs (1) (i) and (ii) of this paragraph, a method acceptable to Veterinary Services shall be used.

(2) Each of at least 10 susceptible cats shall be injected with a sample of the Master Seed Virus equivalent to the amount of virus to be used in one cat dose of the vaccine, in the manner to be recommended on the label, and observed for 14 days.

(3) If unfavorable reactions attributable to the virus occur in any of the cats, the Master Seed Virus is unsatisfactory for vaccine production.

(b) The cat safety test provided in this paragraph shall be used when a serial of vaccine is tested for safety before release.

(1) Each of two healthy cats shall be injected with 10 cat doses by the method recommended on the labels and the cats observed each day for 14 days.

(2) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided,* That, if not repeated, the serial shall be unsatisfactory.

2. Part 113 is amended by adding three new sections to read:

§ 113.43 Detection of chlamydial agents.

The test for chlamydial agents provided in this section shall be conducted when such a test is prescribed in an applicable Standard Requirement or in a filed Outline of Production.

(a) The yolk sac of 6-day-old chicken embryos shall be injected. Three groups of 10 embryos shall be used sequentially.

(1) The inoculum for each embryo in the first group shall consist of 0.5 ml of a mixture of equal parts of the seed virus with phosphate buffered saline containing 2 mg/ml each of Streptomycin, Vancomycin, and Kanomycin.

(2) On the tenth day postinoculation, the yolk sac of viable embryos shall be harvested, pooled, homogenized as a 20 percent suspension in phosphate buffered saline antibiotic diluent, and 0.5 ml of the mixture injected into the second group of chicken embryos. This process shall be repeated for the injection of the third group of embryos using the yolk sacs of viable embryos from the second group.

(3) For each of the three passages, embryo deaths occurring within 48 hours of injection shall be disregarded except that if more than three such deaths occur at any passage, that passage shall be repeated.

(b) If one or more embryo deaths occur at any passage after 48 hours postinjection, the yolk sacs from each of the dead embryos shall be subcultured into 10 additional embryos. If one or more embryo deaths again occur, the Master Seed Virus is unsatisfactory for use to produce vaccine.

§ 113.149 Feline Calicivirus Vaccine.

Feline Calicivirus Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline calicivirus susceptible cats shall be used as test animals (20 vaccinates and 10 controls). Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of feline calicivirus. Blood samples shall be drawn and individual serum samples tested. The cats shall be considered suitable for use if all swabs are negative for virus isolation and if all serums are negative for calicivirus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other SN test of equal sensitivity.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate confirming titrations shall be conducted on each dose.

(3) Twenty-one days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with virulent feline calicivirus furnished or approved by Veterinary Services and observed each day for 14 days postchallenge. The rectal temperature of each animal shall be taken and the presence or absence of clinical signs, particularly lesions on the oral mucosa, noted and recorded each day.

(i) If at least 70 percent of the controls do not show signs of feline calicivirus infection including dyspnea, depression, lesions of the oral mucosa, and a temperature of over 104° F, the test is inconclusive and may be repeated.

(ii) If at least 70 percent of the vaccinates are not protected against a temperature of 104° F or higher and against one or more of the signs of disease observed in the controls, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. At least five vaccinates and five controls shall be used in the retest: *Provided*, That, 70 percent of the vaccinates and 70 percent of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety Test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39 shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{3.5}$ plaque forming units per dose.

§ 113.150 Feline Rhinotracheitis Vaccine.

Feline Rhinotracheitis Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline rhinotracheitis susceptible cats shall be used as test animals (20 vaccinates and 10 controls). Blood samples shall be drawn from these animals and individual serum samples tested. The cats shall be considered susceptible if the results are negative at a 1:2 final dilution in a 50 percent plaque reduction test or other test of equal sensitivity.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate confirming titrations shall be conducted on each dose.

(3) Twenty-one days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with virulent feline rhinotracheitis virus furnished or approved by Veterinary Services and observed each day for 14 days postchallenge. The rectal temperature of each animal shall be taken and the presence of respiratory or other clinical signs of feline rhinotracheitis noted and recorded each day.

(i) If at least 80 percent of the controls do not show signs of feline rhinotracheitis, including conjunctivitis, rhinitis, and a temperature of 104.5° F or higher, the test is inconclusive and may be repeated.

(ii) If a statistically significant difference cannot be demonstrated between temperatures of vaccinates and controls, and if 80 percent of the vaccinates do not remain free of severe upper respiratory signs, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years

and each 5 years thereafter unless use of the lot previously tested is discontinued. At least five vaccinates and five controls shall be used in the retest: *Provided,* That, 80 percent of the vaccinates and 80 percent of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39 shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{3.5}$ plaque forming units per dose.

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 8th day of May 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-12824 Filed 5-11-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 7]

[Docket No. 78N-0104]

ENFORCEMENT POLICY

Opportunity for Presentation of Views Before Report of Criminal Violation

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: This document proposes to revise the procedures applicable to an FDA notice of an opportunity to present views before the agency reports a criminal violation to a United States attorney for prosecution, and to identify those situations when such notice need not be given. The revisions are proposed, in part, to clarify and simplify the hearing procedures.

DATE: Comments by June 12, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

William L. Schwemer, Compliance Coordination Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfate, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposes to revise the regulations governing procedures under section 305 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) concerning the report of a criminal violation to a United States attorney for prosecution. The revisions are designed to (1) specify that a refereal by FDA for further investigation, rather than for immediate prosecution, need not be preceded by an opportunity to present views under section 305 of the act, (2) identify those statutes enforced by FDA to which section 305 applies, (3) define the "exceptional circumstances" under which a notice under section 305 will not be issued, (4) simplify the procedures to more closely resemble conferences customarily held with potential defendants, and (5) delete the phrase "informal hearing" because the Medical Device Amendments of 1976 have now established a statutory definition for this phrase in section 201(y) of the act (21 U.S.C. 321(y)).

Regulations describing FDA's practices and procedures governing informal hearings held before reporting a criminal violation of the Federal Food, Drug, and Cosmetic Act to a United States attorney, pursuant to section 305 of the act, were published as a final rule in the FEDERAL REGISTER of March 22, 1977 (42 FR 15567). Since that time, the need for certain modifications in the regulations has become apparent.

Section 305 of the act, by its terms, applies only when the agency has determined that "a violation" of the act has occurred and the agency intends to refer the case to a United States attorney for a "criminal proceeding," that is, prosecution. A request for a grand jury investigation does not constitute the reporting of a violation for prosecution. Accordingly, the revised regulation, in §7.85(a) (21 CFR 7.85(a)), makes clear that the agency need not hold a section 305 hearing when it is considering recommending a grand jury investigation instead of a criminal prosecution based on the evidence then available.

Ordinarily, a hearing is held only after FDA investigation has revealed violations of the act and has identified the individuals who appear to be responsible. Section 305 of the act offers an opportunity for the prospective defendants to present their views on why the case should not be referred to the United States attorney for prosecution. In those instances when FDA has not been able to determine through its own investigative authority that violations have in fact occurred or which individuals are responsible, the agency's recommendation to the Justice Department may be to investigate the matter further through a grand jury. Indeed, it may not be possible to issue a 305 notice because an appropriate recipient—a person who appears to have been responsible for the violation—may be unknown. In such cases, a section 305 proceeding is replaced, in effect, by the proceedings before the grand jury.

Since a 305 notice alerts a prospective defendant that prosecution may be imminent, it may result in the alteration or destruction of potentially incriminating evidence. Such action would jeopardize the potential success of the criminal prosecution. When FDA has reason to believe that such alteration or destruction will occur, or that a potential defendant will flee, a 305 notice need not be issued.

The current regulation states that the Charge Sheet (Form FD-1854) accompanying the 305 notice shall include references not only to apparent violations of the Federal Food, Drug, and Cosmetic Act, but also to violations of "other laws administered by the agency." In addition, when the regulation was proposed, the preamble stated that a 305 hearing would include violations of other related Federal laws. However, the statute refers only to "any violation of this Act

* * *." FDA's current practice is to reference in the 305 notice other Federal statutes violated by the same conduct that violates the Federal Food, Drug, and Cosmetic Act. This practice is retained in revised § 7.84(c). However, if the agency does not contemplate proceeding with a recommendation under the Federal Food, Drug, and Cosmetic Act, no 305 hearing will be held with regard to the violation of other statutes.

The existing regulation requires the use of preprinted forms to notify the prospective defendants of the alleged violations and gives them the opportunity to present their views. These forms contain introductory language and certain terminology that may not be appropriate in every case. To afford flexibility in preparing the 305 notice and related documents, the reference to specific forms is deleted from § 7.84(d) and replaced by a generic description of the type of information that will be sent.

As a result of the Medical Device Amendments of 1976, the term "informal hearing" is now defined in section 201(y) of the Federal Food, Drug, and Cosmetic Act. That statutory term describes a formal proceeding, inconsistent with the informal opportunity to present views provided in section 305 of the act. To avoid confusion, the term "informal hearing" is deleted from the 305 regulations and replaced with the term "opportunity to present views."

Since preprosecution hearings were first provided for in the Food and Drugs Act of 1906, the opportunity to be heard has had the character of an informal conference. Respondents have been afforded wide latitude to explain voluntarily why criminal prosecution should not be recommended. Because these nonadversary proceedings have served their purpose well, FDA is proposing procedural revisions intended to preserve the informal character of the opportunity to present views.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b), and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 305, 701(a), 52 Stat. 1045, 1055 (21 U.S.C. 335, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 7 be amended as follows:

1. By revising § 7.3, to read as follows:

§ 7.3 Definitions.

(a) "Agency" means the Food and Drug Administration.

(b) "Citation" or "cite" means a document and any attachments thereto that provide notice to a person against whom criminal prosecution is contemplated of the opportunity to present views to the agency regarding an alleged violation.

(c) "Respondent" means a person named in a notice who presents views concerning an alleged violation either in person, by designated representative, or in writing.

(d) "Responsible individual" includes those in positions of power or authority to detect, prevent, or correct violations of the Federal Food, Drug, and Cosmetic Act.

2. By revising § 7.84, to read as follows:

§ 7.84 Opportunity for presentation of views before report of criminal violation.

(a)(1) Except as provided in paragraph (a)(2) and (3) of this section, a person against whom criminal prosecution under the Federal Food, Drug, and Cosmetic Act is contemplated by the Commissioner of Food and Drugs shall be given appropriate notice and an opportunity to present information and views to show cause why criminal prosecution should not be recommended to a United States attorney.

(2) Notice and opportunity need not be provided of the Commissioner has reason to believe that it may result in the alteration or destruction of evidence or in the prospective defendant fleeing to avoid prosecution.

(3) Notice and opportunity need not be provided if the Commissioner contemplates recommending further investigation by the Department of Justice.

(b) Where a statute enforced by the Commissioner does not provide for an opportunity to present views, the Commissioner need not, but may in the Commissioner's discretion, provide notice and an opportunity to present views.

(c) Where an apparent violation of the Federal Food, Drug, and Cosmetic Act also constitutes a violation of any other Federal statute, and the Commissioner contemplates recommending prosecution under such other statute(s) as well, the notice of opportunity to present views will include all violations.

(d) Notice of an opportunity to present views may be by letter, standard form, or other document(s) identifying the products and/or conduct alleged to violate the law. The notice shall (1) be sent by registered or certified mail, telegram, telex, personal delivery, or any other appropriate mode of written communication; (2) specify the time and place where those named may present their views; (3) summarize the violations that constitute the basis of the contemplated prosecution; (4) describe the purpose and procedure of the presentation; and (5) furnish a form on which the legal status of any person named in the notice may be designated.

(e) If more than one person is named in a notice, a separate opportunity for presentation of views shall be scheduled on request. Otherwise, the time and place specified in a notice may be changed only upon a showing of reasonable grounds. A request for any change shall be addressed to the Food and Drug Administration office that issued the notice and shall be received in that office at least 3 working days before the date set in the notice.

(f) A person who has received a notice is under no legal obligation to appear or answer in any manner. A person choosing to respond may appear personally, with or without a representative, or may designate a representative to appear for him or her. Alternatively, a person may respond in writing. If a person elects not to respond on or before the time scheduled, the Commissioner will, without further notice, decide whether to recommend criminal prosecution to a United States attorney on the basis of the information available.

(g) When a respondent chooses to appear solely by designated representative, such representative shall present a signed statement of authorization. When a representative appears for more than one respondent, the representative shall submit independent documentation of authority to act for each respondent. If a representative appears without written authorization, the opportunity to present views with respect to that respondent may be provided at that time only if the authenticity of the representative is first verified by telephone, or other appropriate means.

3. By revising § 7.85, to read as follows:

§ 7.85 Conduct of a presentation of views before report of criminal violation.

(a) The presentation of views shall be heard by a designated Food and Drug Administration employee. Other Food and Drug Adminstrtation employees may be present.

(b) A presentation of views shall not be open to the public. The agency employee designated to receive views will permit participation of other persons only if they appear with the respondent or the respondent's designated representative and at the request of and on behalf of the respondent.

(c) A respondent may present any information of any kind bearing on the Commissioner's determination to recommend prosecution. Information may include statements of persons appearing on such respondent's behalf, letters, documents, laboratory analyses, if applicable, or other relevant data or arguments. The opportunity to present views shall be informal. The

rules of evidence shall not apply. Any information given by a respondent, including statements by the respondent, may be introduced at any subsequent trial. The Food and Drug Administration is under no obligation to present evidence or witnesses.

(d) If the respondent holds a "guaranty or undertaking" as described in section 303(c) of the act (21 U.S.C. 333(c)) that is applicable to the notice, such document, or verified copy thereof, may be presented by the respondent.

(e) With the approval of the agency employee designated to receive views, a respondent may have a verbal presentation transcribed at such respondent's expense, in which case a copy of such transcription shall be furnished to the Food and Drug Administration office from which the notice issued. The employee designated to receive views may order a presentation of views transcribed at agency expense, in which case a copy of such transcription shall be provided to each respondent.

(f) If an oral presentation is not transcribed, the agency employee designated to receive views shall dictate a written summary of the presentation at its conclusion. A copy of the summary shall be provided to each respondent.

(g) A respondent may supplement any response by additional written or documentary evidence. Such addition shall be furnished to the Food and Drug Administration office where the respondent's views were presented. If additions are submitted within 10 calendar days after receipt of the copy of the summary or transcription of the presentation, as applicable, they will be considered before a final decision whether or not to recommend prosecution. Any evidence received after the supplemental response period generally will be considered only if the final decision has not yet been made.

(h)(1) When consideration of criminal prosecution recommendation involving the same violations is closed by the Commissioner with respect to all persons named in the notice, the Commissioner will so notify each person in writing.

(2) When it is determined that a person named in a notice will not be included in the Commissioner's recommendation for criminal prosecution, the Commissioner will notify that person if and when the Commissioner concludes that notification will not prejudice the prosecution of any other person.

(3) When a United States attorney informs the agency that no persons recommended will be prosecuted, the Commissioner will so notify each person in writing.

(4) When a United States attorney informs the agency of intent to prosecute some but not all persons who had been provided an opportunity to present views and were subsequently named in the Commissioner's recommendation for criminal prosecution, the Commissioner will notify those persons after being advised by the United States attorney that such notification will not prejudice the prosecution of any other person.

4. By revising § 7.87, to read as follows:

§ 7.87 Records related to opportunities for presentation of views conducted before report of criminal violation.

(a) Records relating to a section 305 opportunity for presentation of views constitute investigatory records for law enforcement purposes and may include inter- and intra-agency memoranda.

(1) Notwithstanding the rule established in § 20.21 of this chapter, no record relating to a section 305 presentation is available for public disclosure until consideration of criminal prosecution has been closed in accordance with paragraph (b) of this section, except as provided in § 20.82 of this chapter. Only very rarely and only under circumstances that demonstrate a compelling public interest will the Commissioner exercise the Commissioner's discretion to disclose records (in accordance with § 20.82 of this chapter) relating to a section 305 presentation before the consideration of criminal prosecution is closed.

(2) After consideration of criminal prosecution is closed, such records are available for public disclosure in response to a request under the Freedom of Information Act, except to the extent that the exemptions from disclosure in Subpart D of Part 20 of this chapter are applicable. No statements obtained through promises of confidentiality shall be available for public disclosure.

(b) Consideration of criminal prosecution based on a particular section 305 opportunity for presentation of views shall be deemed to be closed within the meaning of this section and § 7.85 when a final decision has been made not to recommend criminal prosecution to a United States attorney based on charges set forth in the notice and considered at the presentation, or when such recommendation has been finally refused by the United States attorney, or when criminal prosecution has been instituted and the matter and all related appeals have been concluded, or when the statute of limitations has run.

(c) Before disclosure of any record specifically reflecting consideration of a possible recommendation for criminal prosecution of any individual, all names and other information that would identify an individual whose prosecution was considered but as to whom prosecution was not recommended, or who was not prosecuted, shall be deleted, unless the Commissioner concludes that there is a compelling public interest in the disclosure of such names.

(d) Names and other information that would identify a Food and Drug Administration employee shall be deleted from records relating to a section 305 presentation of views before public disclosure only under § 20.32 of this chapter.

Interested persons may, on or before (June 12, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107.

Dated: May 4, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12787 Filed 5-11-78; 8:45 am]

[1505-01]

[21 CFR Part 101]

[Docket No. 77P-0413]

FOOD LABELING

Ingredient Labeling Exemption

Correction

In FR Doc. 78-10035, appearing at page 16347 in the issue for Tuesday, April 18, 1978, make the following changes:

1. The second word in the third line of the "Summary" paragraph on page 16347 should read, "in".

2. On page 16348, the first line of the "Date" paragraph in column one should read, "DATE: Written comments by June 19," and the second line of the second complete paragraph in column three should read, "June 19, 1978, submit to the Hearing".

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

[24 CFR Part 4000]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

AGENCY: National Commission on Neighborhoods.

ACTION: Proposed Rule.

SUMMARY: The National Commission on Neighborhoods proposes regulations to implement the Privacy Act of 1974 (5 U.S.C. 552a). Interested parties are invited to comment.

DATES: Comments are due on or before June 7, 1978.

ADDRESS: Send comments to: Robert L. Kuttner, Executive Director-designate, National Commission on Neighborhoods, 2000 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert L. Kuttner, Executive Director-designate, Area 202-632-5200.

Signed this 8th day of May 1978 by:

FRANCES PHIPPS,
Deputy Director.

1. Chapter XXIV of Title 24 is proposed to read as follows: "Chapter XXIV—National Commission on Neighborhoods"

2. It is proposed to add the following part 4000 to Title 24 of the CFR

PART 4000—PRIVACY ACT IMPLEMENTATION

Sec.

4000.1 Purpose and scope.
4000.2 Definitions.
4000.3 Procedures for requests pertaining to individual records in a record system.
4000.4 Times, places, and requirements for the identification of the individual making a request.
4000.5 Access of requested information to the individual.
4000.6 Request for correction or amendment to the record.
4000.7 Agency review of request for correction or amendment of the record.
4000.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
4000.9 Disclosure of record to a person other than the individual to whom the record pertains.
4000.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 4000.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the National Commission on Neighborhoods (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 4000.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions, and that contains his or her name, or the indentifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any reocrds under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 4000.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a request to the Excecutive Director of the Commission to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Commission which states the individual's desire to review his or her record.

§ 4000.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Executive Director of the Commission pursuant to § 4000.3 of this Part shall present the request at the Commission offices, 2000 K Street NW., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5:30 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 4000.5 Access to requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 4000.6 Request for correction or amendment to the record.

The individual should submit a request to the Executive Director of the Commission which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 4000.4 of this Part.

§ 4000.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Executive Director of the Commission will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 4000.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

(a) An individual who disagrees with the refusal of the Executive Director of the Commission to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, National Commission on Neighborhoods, 2000 K Street NW., Washington, D.C. 20006.

(b) The Executive Director will not later than thirty working days from the date on which the individual requests such review, completes such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a (g)(1)(A).

§ 4000.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record per-

tains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 4000.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record in advance of receipt of the pages.

[FR Doc. 78-13020 Filed 5-11-78; 8:45 am]

[7532-01]

[24 CFR Part 4001]

ORGANIZATION AND INFORMATION

AGENCY: National Commission on Neighborhoods.

ACTION: Proposed rule.

SUMMARY: The National Commission on Neighborhoods propose regulations to implement the Freedom of Information Act (5 U.S.C. 552). Interested parties are invited to comment.

DATE: Comments are due on or before June 7, 1978.

ADDRESS: Send comments to: Robert L. Kuttner, Executive Director-designate, National Commission on Neighborhoods, 2000 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert L. Kuttner, Executive Director-designate, area 202-632-5200.

It is proposed to add the following part 4001 to Title 24 of the CFR.

Pursuant to section 552 of title 5, United States Code, as amended, the following Part 4001 is published:

PART 4001—ORGANIZATION AND INFORMATION

ORGANIZATION

Sec.
4001.1 General.
4001.2 Authority and functions.
4001.3 Organization.

PROCEDURES

4001.4 Methods of operation.

AVAILABILITY OF INFORMATION

4001.5 Inspection and copying.

CHARGES FOR SEARCH FOR REPRODUCTION

4001.6 Schedule of fees and method of payment for services rendered.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

ORGANIZATION

§ 4001.1 General

This information is furnished for the guidance of the public and in compliance with the requirements of section 552 of title 5, United States Code, as amended.

§ 4001.2 Authority and functions.

(a) The National Commission on Neighborhoods was established pursuant to Pub. L. 95-24.

(b) The functions of the National Commission on Neighborhoods are carried out pursuant to the provisions of Pub. L. 95-24.

§ 4001.3 Organization.

The central organization of the National Commission on Neighborhoods consists of:

(a) Twenty Commission members selected pursuant to the provisions of Pub. L. 95-24.

(b) An Executive Director appointed by the President, and with the advice and consent of the Senate, from among individuals recommended by the Commission.

(c) Various support staff.

(d) The National Commission on Neighborhoods is presently located in Suite 350, 2000 K Street NW., Washington, D.C. 20006. Regular office hours are from 9 a.m. to 5:30 p.m., Monday through Friday.

PROCEDURES

§ 4001.4 Methods of operation.

(a) A request for records maintained by the National Commission on Neighborhoods should be addressed in writing to the Executive Assistant, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006, 202-632-5200. Requests for information shall be as specific as possible.

(b) Upon receipt of any request for information or records, the Executive Assistant will determine within 10 days (excepting Saturdays, Sundays, and legal public holidays) whether it is appropriate to grant the request and will immediately (Receipt of a request as used herein means the date the request is received in the office of the Commission.) provide written notification to the person making the request. If the request is denied, the written notification will include a notice that an appeal may be lodged with the Executive Director, NCN Suite 350, 2000 K Street NW., Washington, D.C. 20006.

(c) In the event the request is denied and that denial is appealed, the Executive Director will make a determination with respect to such appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays). Appeals shall be set forth in writing and addressed to the Executive Director at the address specified in paragraph (b) of this section. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the Executive Director or his designee. If, on appeal, the denial is in whole or in part upheld, the written determination will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

(d) In unusual circumstances, the time limits prescribed in paragraphs (b) and (c) of this section, may be extended for not more than 10 working days (excepting Saturdays, Sundays, or legal public holidays). Extensions may be granted by the Executive Assistant in the case of initial requests and by the Executive Director in the case of appeals. The extension period may be split between the initial request and the appeal but in no instance may the total period exceed 10 working days. Extensions will be by written notice to the persons making the request and will set forth the reasons for the extension and the date the determination is expected. As used herein, but only to the extent reasonably necessary to the proper processing of the particular request, the term "unusual circumstances" means:

(1) The need to search for and collect the requested records from locations that are separate from the Commission office;

(2) The need to search for, collect, and examine a voluminous amount of separate and distinct records which are demanded in a single request.

AVAILABILITY OF INFORMATION

§ 4001.5 Inspection and copying.

(a) When a request for information has been approved pursuant to section 4 above, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Executive Director at the address or telephone number listed in § 4001.4. Such materials may be copied manually without charge, and reasonable facilities will be made available for that purpose. Also, copies of individual pages of such materials will be made available at the price per page specified in paragraph (a) of § 4001.6.

CHARGES FOR SEARCH AND REPRODUCTION

§ 4001.6 Schedule of fees and method of payment for services.

(a) Following is the fees schedule for the search and reproduction of information available under the Freedom of Information Act (5 U.S.C. 552), as amended.

(1) Search for records. $5 per hour when the search is conducted by a clerical employee. $8 per hour when the search is conducted by a professional employee. No charge for searches of less than 1 hour.

(2) Duplication of records. Records will be duplicated at a rate of $0.25 per page for all copying of 4 pages or more. There is no charge for duplicating 3 or less pages.

(3) Other. When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or type thereof, the Executive Director is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act and in accordance with Office of Management and Budget Circular No. A-25, "User charges." Examples of service covered by this provision include searches involving computer time or special travel, transportation, or communications costs.

(b) If records requested under this part are stored elsewhere than the headquarters of the National Commission on Neighborhoods at Washington, D.C., the special costs of returning such records to the headquarters for review will be added to the search costs. Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made.

(c) Where it is anticipated that the fees chargeable under this section will amount to more than $25, or the maximum amount specified in the request, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to consult with the Commission personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Commission until a reply is received from the requester.

(d) Fees must be paid in full prior to issuance of requested copies. In the event the requestor is in arrears for previous requests for which the Commission was unable to find or provide the requested information (see paragraph (b) of this section), copies of records will not be provided for any subsequent request until the arrears have been paid in full.

(e) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the Administrative Officer, NCN, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

(f) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made.

(g) The Executive Director, or an officer designated by the Executive Director may in accordance with the Freedom of Information Act, as amended, waive all or part of any fee provided for in this section when the Executive Director or the designated officer deems it to be in either the Commission's interest or in the general public interest.

For the National Commission on Neighborhoods.

FRANCES PHIPPS,
Deputy Director.

[FR Doc. 78-13026 Filed 5-11-78; 8:45 am]

COPYRIGHT ROYALTY TRIBUNAL

[37 CFR Part 303]

ACCESS TO PHONORECORD PLAYERS

Proposed Phonorecord Player Access Regulation; Public Hearing

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of proposed regulation and public hearing.

SUMMARY: This notice of proposed rulemaking is issued by the Copyright Royalty Tribunal (CRT) to implement the Act for General Revision of the Copyright Law. This Act directs the CRT to promulgate regulations under which persons who may reasonably be expected to have claims resulting from public performance of nondramatic musical works by coin-operated phonorecord players may have such access to such establishments and to the phonorecord players as may be necessary to determine the proportion of contribution of the musical works of such person to the earnings of the phonorecord players for which fees have been deposited. The proposed regulation requires the recording in the offices of the Copyright Royalty Tribunal of current listings of locations where licensed phonorecord players are placed, and the number of players at such location.

DATES: A public hearing on the proposed regulation will commence at 10 a.m., Wednesday, June 21, and will continue on such subsequent days as may be necessary. All persons desiring to participate at the hearing must advise the Chairman, Copyright Royalty Tribunal not later than June 5 of an intention to appear. Any written testimony or documentary evidence to be presented by persons appearing at the hearing must be submitted not later than June 15. The record will remain open for other written comments until July 5. The rules of procedure for this hearing will provide that proponents and opponents of the proposed regulation will have the opportunity to call and examine witnesses, and to cross-examine witnesses.

ADDRESSES: The hearing will be held at 2033 K Street NW., Washington, D.C., Fifth Floor Hearing Room. Notices of intention to appear, written testimony, documentary evidence and written comments should be sent to Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

37 CFR Chapter III is amended by adding a new Part 303, reading as follows:

PART 303—ACCESS TO COIN-OPERATED PHONORECORD PLAYERS

Sec.
303.1 General.
303.2 Access to establishments.
303.3 Access to the interior of a phonorecord player.
303.4 Recording of location listing in Copyright Royalty Tribunal.

AUTHORITY: (17 U.S.C. 116(c)(5).)

§ 303.1 General.

This regulation prescribes the procedures pursuant to 17 U.S.C. 116 by which persons who can reasonably be expected to have claims to royalty fees paid by the operators of coin-operated phonorecord players under the compulsory license established by 17 U.S.C. 116 may have access to the establishments in which such phonorecord players are located and to the phonorecord players located therein to obtain information which may be reasonably necessary to determine the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. The terms "operator" and "coin-operated phonorecord player" have the meanings given to them by paragraph (3) of section 116 of Title 17.

§ 303.2 Access to establishments.

A person, or authorized representatives of such person, who can reasonably be expected to have claims to royalty fees paid by the operators of phonorecord players shall have access to the establishments in which such phonorecord players are located during customary business hours on regular business days. Such access shall be only for the purpose of obtaining information concerning the performance of musical works by the

phonorecord players. The right of access shall be exercised in such a manner as not to cause any significant interference with the normal functioning of an establishment.

§ 303.3 Acces to the interior of a phonorecord player.

No access to the interior of a phonorecord player to examine phonorecords, record selection (title strips), poularity indicators or other features of the phonorecord player is authorized under these regulations unless such access is essential to obtain accurate information concerning the performance of musical works on the particular phonorecord player, and such information is not otherwise available. No access to the interior of a phonorecord player is authorized under these regulations unless the person desiring such access has notified the operator of the phonorecord player or his authorized representative of the need for such access not less than seven days prior to the date of the proposed examination of the phonorecord player.

§ 303.4 Recording of location listings in Copyright Royalty Tribunal.

(a) Not later than September 1, 1978, every operator of a phonorecord player who has filed in the Copyright Office an application for a phonorecord player compulsory license according to the requirements of 17 U.S.C. 116 and the regulations of the Copyright Office and been issued prior to August 1, 1978, a Copyright Office phonorecord player certificate shall record in the offices of the Copyright Royalty Tribunal a list identifying the location or locations where licensed phonorecord players of the operator are placed, and the number of phonorecord players at any location with more than one such player.

(b) Every operator of a phonorecord player who subsequent to August 1, 1978, obtains his initial Copyright Office phonorecord certificate shall record in the office of the Copyright Royalty Tribunal within thirty days after the issuance of the initial certificate a list identifying the location or locations where licensed phonorecord players of the operator are placed, and the number of phonorecord players at any location with more than one such player.

(c) Every operator of a phonorecord player who alters the number of phonorecord players at a location reported under clause (a) or (b) shall, within thirty days of the alteration, record the revised number of phonorecord players in the offices of the Copyright Royalty Tribunal.

(d) Every operator of a licensed phonorecord player who moves a licensed phonorecord player or players to a location not previously reported to the Copyright Royalty Tribunal shall report such new location, and the number of licensed phonorecord players at that location, within thirty days of the installation of the first phonorecord player at the new location.

(e) The location listing required under this section shall include the full address of the location, including a specific number and street name or rural route.

Dated: May 8, 1977.

THOMAS C. BRENNAN,
Chairman.

[FR Doc. 78-12923 Filed 5-11-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 895-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Proposed Rulemaking: Extension of the Effective Period of the Sulfur in Fuel Regulation for the Southeastern Massachusetts APCD.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The proposed revision changes the expiration date of Regulation 5.1 for the Southeastern Massachusetts Air Pollution Control District (APCD), "Sulfur Content of Fuels and Control Thereof," from May 1, 1978 to July 1, 1979. The regulation, which relaxes the sulfur limitations for fossil fuels burned by large sources in the Southeastern Massachusetts APCD, was approved by EPA as a revision to the State Implementation Plan in FEDERAL REGISTER notices published on September 2, 1977 and January 12, 1978. Comments are solicited on the effect of this extension.

DATES: Comments must be received on or before June 12, 1978.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, J. F. K. Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, Mass. 02111. Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, J. F. K. Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, J. F. K. Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On January 31, 1978, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a revision to the State Implementation Plan (SIP) which would change the expiration date of Regulation 5.1 for the Southeastern Massachusetts Air Pollution Control District (APCD), "Sulfur Content of Fuels and Control Thereof," from May 1, 1978 to July 1, 1979. Regulation 5.1 permits sources with an energy input capacity of one hundred million Btu per hour or more to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent by weight sulfur content residual fuel oil). Sources of less than one hundred million Btu per hour energy input capacity are required to burn fossil fuel with a sulfur content not in exess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual oil). The federal Air Quality Control Region (AQCR) corresponding to the Southeastern Massachusetts APCD is the Massachusetts portion of the Metropolitan Providence Interstate AQCR.

This regulation was approved by EPA as a revision to the Massachusetts SIP in FEDERAL REGISTER notices published on September 2, 1977 (42 FR 44235) and January 12, 1978 (43 FR 1793). Of the seventeen sources in the size category eligible to burn the higher sulfur content fuel, the Administrator required four sources to continue burning 1 percent sulfur content fuel oil, as required by the original SIP. The Administrator's determination was made on the basis of dispersion modeling results which predicted violations of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) if these sources were to convert to the higher sulfur content fuel; consequently, they would be required to continue burning lower sulfur content fuel during the period of the proposed extension.

All sources must be reviewed by the Massachusetts Department and be granted a permit prior to burning the higher sulfur content fuel. Approval is contingent on a demonstration by the source of its ability to comply with applicable regulations, including the particulate emission limitations (compliance to be determined by emission testing) and opacity regulations. Any violation of applicable state regulations or of the NAAQS within the area

of impact of a source will result in revocation of the permit and a mandatory return by that source to lower sulfur fuel.

The Massachusetts Department submitted ambient monitoring data collected after the approved sources commenced burning of higher sulfur fuel. The data from the state monitoring network show no exceedances of the NAAQS for SO_2. In addition, SO_2 data from the monitoring network operated by the New England Power Company and a limited analysis of meteorological conditions during this time indicate that the Brayton Point station has not caused NAAQA exceedances.

Since violations of the NAAQS for total suspended particulates (TSP) have occurred throughout Massachusetts, and since use of higher sulfur fuel may result in increased particulate emissions, all sources converting to higher sulfur fuel were required by the Massachusetts Department to conduct emission tests for particulate matter. The Massachusetts Department submitted emission test results for Canal Electric Company; emissions were well below the regulatory limit. In no case would a source be allowed to continue burning higher sulfur fuel if its particulate emissions exceed the regulatory limits of the SIP.

Although the presently available data show that implementation of the revision has not contributed to violations of the NAAQS in the Southeastern Massachusetts APCD, the data are too limited to be conclusive. In accordance with the requirements of the August 7, 1977 Clean Air Act Amendments (Pub. L. 95-95), the Massachusetts Department is developing SIP revisions for non-attainment areas in the state, including this AQCR. Monitoring and emission data collected as part of a study now being conducted by the State and available prior to the time when these SIP revisions are submitted to EPA will be used in developing SO_2 and particulate control strategies.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)-(H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: May 3, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc. 78-12956 Filed 5-11-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 894-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Notice of Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of New York to revise its State Implementation Plan. The State is seeking approval from the Environmental Protection Agency (EPA) of a temporary relaxation of the current fuel oil sulfur content limitation of 0.37 percent, by weight, applicable to the Village of Freeport Plant No. 2 generating facility, Units 1 and 2, in Nassau County, N.Y. This "special limitation" proposed by the State would permit the use, until July 31, 1980, of fuel oil having a maximum sulfur content of either 1.0 percent or 2.2 percent. To burn 2.2 percent sulfur content fuel oil the "special limitation" would require that the height of the facility's stacks be increased to approximately 180 feet (55 meters) above ground level. EPA is proposing to approve only the use of 1.0 percent sulfur content fuel oil because EPA regulations concerning stack height and emission increases currently are being developed under section 123 of the Clean Air Act.

DATES: Comments must be received on or before June 12, 1978.

ADDRESSES: All comments should be addressed to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007. Copies of the proposal are available for public inspection during normal business hours at: U.S. Environmental Protection Agency, Air Programs Branch, room 908, Region II Office, 26 Federal Plaza, New York, N.Y. 10007; U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460; New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, N.Y. 12233; and New York State Department of Environmental Conservation, Region I Office, Building No. 40, State University of New York, Stony Brook, N.Y. 11794.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTARY INFORMATION: On May 6, 1977, the State of New York submitted a request to the Environmental Protection Agency (EPA) to approve a proposed revision to the New York State Implementation Plan (SIP). The contents of the State submittal included a technical evaluation of the impact of the proposed revision on air quality and an evaluation report prepared by the hearing officer for a State public hearing held on April 17, 1975. Also contained in the submittal was Order No. 3161C, dated May 3, 1977 and signed by the Commissioner of the New York State Department of Environmental Conservation.

The Commissioner's Order was issued to the Village of Freeport under the provisions of Title 6 of the New York State Official Compilation of Codes, Rules, and Regulations (6 NYCRR 225.2). On August 1, 1977, the State submitted a revised order also dated May 3, 1977. The revised order superseded the one contained in the May 6, 1977 State submittal and corrected certain technical defects in the original. The State's revision request was submitted in accordance with all EPA requirements under 40 CFR Part 51.

The proposed SIP revision is a "special limitation" which, if approved by EPA for inclusion in the SIP, would allow the Village of Freeport to temporarily use higher sulfur content fuel oil than currently allowed at its Plant No. 2 generating facility, Units 1 and 2, located in Nassau County, New York. The "special limitation" would allow the use, until July 31, 1980, of residual fuel oil having a maximum sulfur content either of 1.0 percent or 2.2 percent, by weight. The 1.0 percent limitation would be allowed with the existing stack heights of 108 feet (32 meters) above ground level and 2.2 percent limitation would be allowed with the heights of the stacks increased to approximately 180 feet (55 meters) above ground level. The current sulfur-in-fuel-oil limitation applicable to this facility is 0.37 percent, by weight. The existing stack heights of 108 feet include stack extensions of 18 feet installed at the Freeport facility subsequent to the public hearing.

The State technical evaluation and hearing officer's report indicate that with the existing stacks, when burning 2.2 percent sulfur content fuel oil, contraventions of the three-hour national secondary ambient air quality standard and the one-hour New York State ambient air quality standard for sulfur dioxide are expected to occur under occasional high wind conditions. If the stacks are permitted to be raised to 180 feet, the State predicts that no contraventions of either standard will occur.

An initial review of the impact of the proposed SIP revision was per-

formed by EPA utilizing, in part, a document entitled, "Achievement and Maintenance of National and New York State Sulfur Dioxide Standards on Long Island, The Impact of Special Limitations Concerning Fuel Use at the Village of Freeport Electric Generating Plant No. 2," prepared for the Village of Freeport by Environmental Research & Technology, Inc. (ERT), March 1975 and an analysis of aerodynamic downwash, also prepared by ERT entitled, "The Effect of Aerodynamic Downwash on SO_2 Concentrations in the Vicinity of the Freeport Power Plant No. 2." The initial EPA review agrees with the finding by the State which indicates that contraventions of the 3-hour sulfur dioxide air quality standard can occur with the use of 2.2 percent sulfur content fuel oil with the existing stacks. This air quality problem is a result of an atmospheric phenomenon called aerodynamic downwash. This occurs when the height of a stack is relatively close to that of a nearby building causing the emissions to become trapped in a concentrated form close to the facility. At the Freeport facility the stack is located on a building 71 feet (22 meters) above ground level; the top of the stack is 108 feet (32 meters) above ground level. This configuration meets the criteria for downwash potential. As a result, high concentrations of sulfur dioxide are expected in the vicinity of the facility with the use of 2.2 percent sulfur content fuel oil with the existing stacks, although no contraventions are expected to occur with the use of 1.0 percent sulfur content fuel oil. In addition, no contraventions are expected to occur with the use of either 1.0 percent or 2.2 percent sulfur content fuel oil with the height of the stacks increased to 180 feet.

It is the current position of EPA that the use of 1.0 percent sulfur content fuel oil with the existing stacks is an approvable provision of this proposed SIP revision. However, EPA's current position on the approvability of the proposal to use 2.2 percent sulfur content fuel oil with extended stacks is that no action can be taken at this time. This is because EPA is currently in the process of developing regulations concerning stack height and emission increases under the provisions of section 123 of the Clean Air Act which is the section that mandates the conditions under which emission limitations may be affected by stack height. Thus, any approval or disapproval action at this time could subsequently be found to be inconsistent with the regulations currently being developed.

The hearing officer's report documents several complaints made by the public concerning the emission of soot, ash, debris, and foul odors from the Freeport facility. These problems have occurred with the existing stacks and with the facility using residual fuel oil. While the proposed increase in stack height to 180 feet may reduce the impact of the emissions of the Freeport facility on nearby areas and may alleviate the public nuisance problems which have occurred in the past, for the reasons previously stated, EPA cannot take action on the proposed use of 2.2 percent sulfur content fuel oil with a stack height increase at this time.

In the hearing officer's report it is also indicated that, based on stack tests performed at the Freeport facility, the State particulate matter emission limitation is exceeded when residual fuel oil is used. Residual fuel oil will probably be used if EPA approves any part of the plan revision. In a letter dated November 3, 1977, EPA informed the Village of Freeport that the State particulate matter emission limitation must be met and that the Village of Freeport would be subject to penalties if the limitation were violated. EPA informed the Village of Freeport in the letter that particulate matter control equipment would have to be installed prior to the use of residual fuel oil if use of such fuel oil were approved.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Section 110(a)(2)(A)-(K) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

Dated: April 14, 1978.

ECKARDT C. BECK,
Regional Administrator,
Environmental Protection Agency.

[FR Doc. 78-13129 Filed 5-11-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 450]

MEDICAL ASSISTANCE PROGRAM

Public Notice of Changes in the Method or Level of Reimbursement for Health Care Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This regulation would require State Medicaid agencies to give 60 days public notice of any proposed change in the method or level of reimbursement for services provided under the Medicaid program before such changes can become effective. This 60 day period would allow the Federal Government, in cooperation with the States, and the public to evaluate the justification for the changes.

DATES: Closing date for receipt of comments: July 11, 1978.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Please refer to file code MMB-248-P. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from today, the public may review the comments Monday through Friday of each week, from 8:30 a.m. to 5 p.m.: Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5225, 330 C Street SW., Washington, D.C. 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Milton Dezube, 202-245-8990.

SUPPLEMENTARY INFORMATION: We are deeply concerned about the rapid rise in the cost of medical care in this country. As Secretary Califano noted in his press conference on April 12, 1978, during the period 1975 to 1977, cost for medical services rose at the rate of 9.5 percent per year, which is more than 1½ times the overall rate of increase for all consumer prices. This rapid rise in health care costs can make it difficult for people to obtain the health care services they need. Moreover, since the health care industry is the third largest industry in the nation, the rapid increase in health care costs is a major contributor to the national problem of inflation.

This proposed rule is one of several initiatives we are taking to try to restrain the increase in health care costs. We believe that requiring State Medicaid agencies to give the public, and other government agencies, an opportunity to evaluate and comment on proposed changes in Medicaid reimbursement to health care providers may being new information, concerns and ideas to the attention of the State Medicaid agency and have a beneficial impact on the rapid rise in health care costs.

We propose requiring the State Medicaid agency to publish a notice of proposed changes in Medicaid reimbursement at least 60 days before the changes take effect. The notice would have to explain the basis for the change and describe the economic impact it is expected to have.

In some instances, Medicaid services are reimbursed in accordance with the

principles, methods and reimbursement levels established under the Medicare program. (See 42 CFR 450.30). If the State Medicaid agency is merely making a change in its reimbursement practices to conform to a change in the Medicare program, a public notice 60 days prior to the change would not appear to serve a significant purpose and, therefore, would not be required.

This proposed rule is based on sections 1902(a)(4)(A) and 1902(a)(3) of the Social Security Act. Section 1902(a)(4)(A) specifies that a State plan for medical assistance shall provide for "such methods of administration * * * as are found by the Secretary to be necessary for the proper and efficient operation of the plan." Section 1902(a)(30) requires that a State plan must:

provide such methods and procedures relating to the utilization of, and payment for, care and services available under the plan * * * as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care.

42 CFR Part 450 is amended by adding a new § 450.29 to read as follows:

§ 450.29 Public notice of changes in the method or level or reimbursement for health care services.

(a) The State plan must provide public notice of any proposed changes in the levels or methods of reimbursement for health care services, except as specified in paragraph (c) of this section. The notice must:

(1) Describe the proposed change, the reason for it, and its expected economic impact;

(2) Be published at least 60 days prior to the proposed effective date of the change;

(3) Appear as a public announcement in the newspaper of widest circulation in each city with a population of 50,000 or more;

(4) Identify a local agency in each county (such as the social services agency or health department) where copies of the proposed changes are available for public review;

(5) Specify an address where written comments may be sent; and

(6) If there are to be public hearings, either specify the location, date, and time for the hearings or explain how information concerning them can be obtained.

(b) The State plan must also provide for notifying HCFA of the proposed changes, concurrently with publication of the notice.

(c) Public notice is not required if the changes in Medicaid reimbursement are being made to conform to changes in the level or method of reimbursement under the Medicare program.

(Sections 1102, 1902(a)(4) and 1902(a)(30) of the Social Security Act; 49 Stat. 647, 79 Stat. 344; 42 U.S.C. 1302, 1396(a)(4) and 1396(a)(30).)

(Catalogue of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program).

Dated: April 13, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: May 8, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-12959 Filed 5-11-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-148; RM-2694]

TELEVISION BROADCAST STATION IN SALEM, OREG.

Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rulemaking.

SUMMARY: Federal Communications Commission proposes to reserve existing Channel 3 television assignment in Salem, Oreg., for noncommercial educational use. This action would reflect the actual operation of Station KVDO-TV on this channel assignment. This action was initiated by a petition for rulemaking filed by the State Board of Higher Education of the State of Oregon, licensee of Station KVDO-TV.

DATES: Comments must be received on or before July 5, 1978, and reply comments must be received on or before July 25, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Gordon W. Godfrey, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: May 5, 1978.

Released: May 10, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations, Salem, Oreg., BC Docket No. 78-148, RM-2694.

1. The Commission, by the Chief, Broadcast Bureau, has under consideration a petition for rulemaking filed by the State of Oregon acting by and through the State Board of Higher Education ("Board"). The Board seeks amendment of the Television Table of Assignments to reserve television Channel 3 at Salem, Oreg., for noncommercial educational use.

2. Salem (pop. 68, 296), seat of Marion County (pop. 151,309) and capital of the State of Oregon, is located in northwest Oregon, about 50 miles south of Portland. Salem is currently assigned VHF Channel 3 (used by petitioner's Station KVDO-TV), and UHF Channels *22 and 32. Channels *22 and 32 are both vacant and no applications for their use have been filed.

3. On February 19, 1976, the Commission granted its consent to the assignment of license (BALCT-571) for television Station KVDO-TV, Channel 3, Salem, Oreg., from Corvallis TV Cable Co. to the Board.[1] The Board presently operates noncommercial educational television, FM and AM broadcast stations in the State of Oregon, and since the assignment of Station KVDO-TV, has operated it as a noncommercial educational television station.

4. Inasmuch as the reservation of Channel 3 in Salem, Oreg., for noncommercial educational use would be a recognition of the operation of the petitioner on Channel 3, the Commission is persuaded that a rulemaking proceeding should be instituted. Thus, we are requesting comments on the Board's proposal. Also, since there appears to be no interest in a second reserved channel, we propose to delete the reservation on Channel 22.

5. Therefore, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the rules) with respect to the city listed below:

City and Channel Number

Salem, Oreg., Present: 3+, *22, 32; Proposed: *3+, 22, 32.

6. As Salem is within 250 miles of the United States-Canadian border,

[1] An opposition to the petition seeking its dismissal was filed by Intercontinental Ministries, Inc. ("Intercontinental") on June 8, 1976. At that time, Intercontinental had pending before the Commission a petition for rehearing and reconsideration of the grant of the assignment of the KVDO-TV license to the Board. Because of the pendency of this filing, Intercontinental contended the reassignment of license was not final. Therefore, it argued, no petition to amend the Television Table of Assignments concerning the channel specified in that license should be considered. Subsequent to the filing of this opposition, the Commission denied Intercontinental's petition for rehearing and reconsideration, 59 FCC 2d 1282, and the Commission's action was reaffirmed in the courts, June 2, 1977, 181 U.S. App. D.C. 410. Therefore, the points raised in the opposition are no longer germane to the consideration of the Board's petition.

Canadian concurrence in the proposal to amend the Television Table of Assignments will be necessary.

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures and filing requirements are contained in the attached appendix below and are incorporated by reference herein.

8. Interested parties may file comments on or before July 5, 1978, and reply comments on or before July 25, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, 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 section 0.281(b)(6) of the Commission's rules, it is proposed to amend that the TV Table of Assignments, §73.606(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponents of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking 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 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. 78-13006 Filed 5-11-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Maryland Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Critical Habitat proposal.

SUMMARY: The Service hereby proposes Critical Habitat for the Maryland darter (*Etheostoma sellare*) in northeastern Maryland. This proposal would make this area subject to full protection under section 7 of the Endangered Species Act of 1973 and is being taken to insure the integrity of the Deer Creek and Gasheys Creek aquatic ecosystem. This area is the native range of the Maryland darter and contains the only habitat for this species. The Maryland darter was listed as Endangered in 1967.

DATES: Comments from the public must be received by July 11, 1978. Comments from the Governors of States involved with this action must be received by August 10, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Maryland darter is presently known only from the lower portion of Deer Creek and Gasheys Creek, tributaries of the Susquehanna River, in Harford County, Md. It has also been reported from Swan Creek, also in Harford County. Precise locality information for the Swan Creek locality is not known; however, numerous samples from several localities have not revealed the presence of the Maryland darter. The darter was probably more widespread in the past, but how wide ranging is not known. Factors which could have resulted in the elimination of populations in the lower Susquehanna River include impoundments, pollution, and siltation.

Threats to the continued existence of the Maryland darter are related to the maintenance of its aquatic ecosystem. Siltation and pollution are factors which presently threaten the darter's habitat. Possible increased withdrawal of water from Deer Creek is an additional factor which could adversely impact the species. The proposed Critical Habitat is the only known habitat for the Maryland darter.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatend species or result in the destruction of modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) (to be codified as 50 CFR Part 402) and is reprinted below:

> "Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, FEDERAL REGIS-

TER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

The application of these factors, based on data presently available, to the proposed Critical Habitat of the Maryland darter are discussed in the following paragraph.

The proposed streams include sufficient area for normal population growth and individual movements. Riffle and pool areas provide habitat for aquatic insects and snails, the Maryland darter's food. Large gravel and cobbles in the streams proposed as Critical Habitat provide cover for the Maryland darter. Although reproduction has not been observed, it is presumed to occur in the proposed area since the fish is not known to occur elsewhere. The streams proposed include the only known habitat of the Maryland darter.

The areas included in this proposal do not necessarily include the entire Critical Habitat of the Maryland darter, and modifications of its Critical Habitat designations may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them would not result in the destruction or adverse modification of the Critical Habitat of the Maryland darter.

There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species. This point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives, for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service and the National Marine Fisheries Service, in cooperation with other Federal agencies, have drawn up regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. Provisions for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) (to be codified as 50 CFR Part 402) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate as possible in delineating the Critical Habitat of the Maryland darter. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rule is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

REGULATION PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below.

§ 17.95 [Amended]

The Service proposes to amend § 17.95(e) by adding Critical Habitat of the Maryland darter after that of the slackwater darter as follows:

* * * * * * *

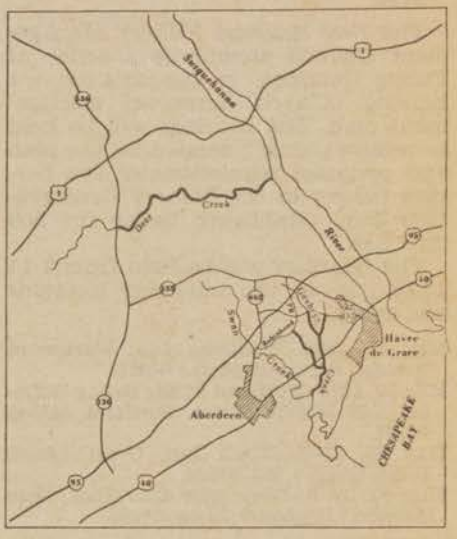
(e) *Fishes.* * * *

MARYLAND DARTER (*Etheostoma sellare*)

Maryland. Harford County. Deer Creek main channel from Maryland highway 136 downstream to its junction with the Susquehanna River. Gasheys Creek main channel including its eastern and western branches from Maryland highway 157 and Robinhood Road downstream to its junction with Swan Creek.

MARYLAND DARTER

Harford County, MARYLAND



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 1, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-12896 Filed 5-11-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Ch. VII]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Hearing

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Announcement of public hearing.

SUMMARY: This document announces a public hearing to be held by the New England Fishery Management Council. The hearing is being held to receive comments from the public on the fishery management plan and the proposed regulations of the herring fishery.

DATES: The hearings will be held on May 15, May 19, May 23, and May 25, 1978. See Supplementary Information below.

ADDRESSES: The hearings will be held in Rockport, Maine, Portland, Maine, Galilee, R.I., and Gloucester, Mass. See Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Mr. Spencer Appollonio, 617-535-5450.

The New England Fishery Management Council announces a series of Public Hearings on the Atlantic sea herring (*Clupea harengus*) management plan. The hearings will be held to receive public comment on the plan and proposed regulations of the herring fishery in the Fishery Conservation Zone established under the 200 mile Act.

The hearings will be held from 7 to 10:30 p.m. at the following locations and dates:

May 15, 1978—Treadway Inn, Warrenton Avenue, Rockport, Maine 04856.
May 19, 1978—Portland Public Safety Building, 109 Middle Street, Portland, Maine 04101.
May 23, 1978—Dutch Inn, Great Island Road, Galilee, R.I. 02882.
May 25, 1978—Gloucester City Hall, Dale Avenue, Gloucester, Mass. 01930.

The proposed plan would set herring quotas by area and by season through 1979 and 1980 with the purpose of controlling harvests of adult herring in the Gulf of Maine to permit rebuilding of that stock. The proposed quotas take account of seasonal migrations and intermixing of herring stocks to maximize total allowable catches without further depletion of the Gulf of Maine stock.

Copies of the management plan and further information are available by contacting Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960, 617-535-5450.

Dated: May 5, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12764 Filed 5-11-78; 9:12 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 221, 371, 372, 372a, 373, 378, 378a]

[EDR-332A, SPDR-60A; Docket 30654; Dated May 5, 1978]

EXEMPTION OF AIR CARRIERS FROM FILING TARIFFS FOR INTERSTATE AND OVERSEAS CHARTERS

In the matter of Part 207—*Charter Trips and Special Services;* Part 208—*Terms, Conditions and Limitations of Certificates to Engage in Supplemental Air Transportation;* Part 212—*Charter Trips by Foreign Air Carriers;* Part 214—*Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only;* Part 221—*Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers;* Part 371— *Advance Booking Charters;* Part 372—*Overseas Military Personnel Charters;* Part 372a—*Travel Group Charters;* Part 373—*Study Group Charters by Direct Air Carriers and Study Group Charters;* Part 378—*Inclusive Tour Charters;* Part 378a—*One-Stop-Inclusive Tour Charter.*

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Board proposes to relieve air carriers and foreign air carriers from the requirement to file tariffs with the Board stating their rates and charges for charter air transportation. This supplemental notice is in response to a comment of NACA.

DATE: Comments by June 12, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 30654, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Juhnke, Associate General Counsel, Rates and Agreements, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5436.

SUPPLEMENTARY INFORMATION: In response to a petition by the National Air Carrier Association (NACA)[1] the Board proposed to relieve air carriers from filing rate tariffs for their interstate and overseas charters (both passenger and cargo). EDR-332, SPDR-60, 42 FR 43409, August 29, 1977. NACA had proposed an exemption that also covered charters in foreign air transportation, but the Board tentatively concluded that section 416(b) of the Act did not give it authority to exempt foreign air carriers from the tariff-filing requirements of section 403. Lacking that authority, we did not propose to give domestic carriers an advantage over their foreign competitors by exempting them from filing tariffs for their foreign charters.

A number of comments to that notice have been filed, including a comment by NACA suggesting that the Board does have the authority in section 403(c) of the Act to relieve foreign and, by implication domestic air carriers from filing charter tariffs. That provision states that:

> The Board may in the public interest, by regulation or otherwise, * * * modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

The rationale for our tentative findings in EDR-332—i.e., that special circumstances affecting charter operations made the filing of charter rate tariffs an undue burden—applies equally to foreign and domestic charter tariffs. The sole reason for not extending the proposal to foreign charters was our perceived lack of authority under section 416(b). We therefore seek comment on the Board's legal authority to relieve foreign air carriers from section 403 of the Act; on whether special circumstances justify a modification of the tariff-filing charter tariffs pursuant to section 403(c) of the Act; and, if so, whether the Board should grant that relief.

We also limited our proposal in EDR-332 to rate, as opposed to rules tariffs because we were concerned that the elimination of certain of the latter tariffs would be detrimental to consumers. We are now considering extending relief from tariff filing to rules tariffs, and using other means to ensure minimum levels of consumer protection such as in liability for lost, damaged or delayed baggage. We invite comment on which of the current rules tariffs offer important pro-

[1] NACA is acting as attorney in fact for: Evergreen International Airlines, Inc.; Overseas National Airways, Inc.; Trans International Airlines, Inc.; and World Airways, Inc.

tection to the consumer, and how to ensure that protection by means other than requiring tariffs. Along this line, if we adopt this rule, we specifically propose to adopt a rule requiring charter carriers to comply with the baggage liability rules set forth in Docket 27859, the Domestic Baggage Liability Rules Investigation. Orders 77-2-9; 77-5-132; 77-7-43; 77-9-80. See also, 77-4-73; 77-4-82.

Accordingly, the Board proposes to amend parts 207, 208, 212, 214, and 221 of its Economic Regulations (14 CFR parts 207, 208, 212, 214, and 221) and parts 371, 372, 372a, 373, 378, and 378a of its Special Regulations (14 CFR parts 371, 372, 372a, 373, 378, and 378a) as set forth below.

1. Amend § 221.3 to add a new paragraph (d) to read as follows:

§ 221.3 Carrier's duty

* * * * *

(d) *Exemption for charter operations.* Notwithstanding any provision in this chapter, air carriers and foreign air carrers are exempt from filing tariffs for their charter operations.

2. Delete the following sections from chapter II of title 14, Code of Federal Regulations:

14 CFR § 207.4.
14 CFR § 208.32.
14 CFR § 212.3.
14 CFR § 214.13.
14 CFR § 371.42.
14 CFR § 372.26.
14 CFR § 372a.26.
14 CFR § 373.14.
14 CFR § 378.15.
14 CFR § 378a.42.

(Secs. 102, 204, 403, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 758, and 771; 49 U.S.C. 1302, 1324, 1373, and 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13184 Filed 5-11-78; 10:41 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

BASIN ELECTRIC POWER COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for a loan guarantee commitment from the Rural Electrification Administration for Basin Electric Power Cooperative of Bismarck, N. Dak. This loan guarantee commitment is planned to assist in obtaining financing for the construction of two 455 MW lignite-fired generating units planned for construction near Beulah, N. Dak., in conjunction with a proposed adjacent gasification plant to be built by American Natural Gas Coal Gasification Co., a major transmission facility between the plant site and Huron, S. Dak., other minor area transmission facilities, and coal mine development.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 5th day of May 1978.

JOSEPH VELLONE,
Administrator, Rural Electrification Administration.

[FR Doc. 78-12809 Filed 5-11-78; 8:45 am]

[3410-15]

Rural Electrification Administration

SEMINOLE ELECTRIC COOPERATIVE, INC.

Public Information Meeting

Notice is hereby given that the Rural Electrification Administration shall hold public information meetings in connection with a possible loan guarantee for Seminole Electric Cooperative, Inc., 2410 East Busch Boulevard, Suite 108, Tampa, Fla. 33612 (hereinafter referred to as "Seminole") which would provide financing for construction of or otherwise acquiring generation facilities and associated transmission lines in the State of Florida.

Seminole has proposed the construction of two 600 MW coal-fired electric generating units to be completed in 1983 and 1985. In discussions among Federal agencies who may have responsibilities with respect to the proposed project, the Rural Electrification Administration has been tentatively identified as lead agency in the preparation of a joint Federal Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969. Seminole has been and is presently exploring all viable alternatives and their environmental impacts for meeting the increasing power requirements of its member electric distribution cooperatives. Such studies are being conducted in consultation with and using input from Federal, State and local agencies and officials.

As a result of analyses conducted, Seminole proposes construction of two 600 MW coal-fired electric generating units at a single site. Three finalist sites for this facility have been tentatively identified near Bostwick and Satsuma in Putnam County, Fla., and near Sumterville in Sumter County, Fla.

Public information meetings shall be held in order to receive public input and comments concerning the need for the project, finalist sites proposed by Seminole, other potential alternatives, significant issues that should be addressed in the Environmental Impact Statement, designation of the Rural Electrification Administration as lead agency and other matters concerning the proposal. A representative of the Rural Electrification Administration will act as chairperson for said meetings. The May 23, 1978, meeting will be held at the County Commissioners Board Room, Room 209, County Courthouse, St. Johns Avenue and Fourth Street, Palatka, Fla., beginning at 7:30 p.m. The May 24, 1978, meeting will be held in the Board Room, Sumter Electric Cooperative, at the intersection of Florida Highways 301 and 471, Sumterville, Fla., starting at 7:30 p.m.

The Rural Electrification Administration encourages the general public to attend these meetings and provide their input. Any person or group which desires to place its comments, questions or recommendations in writing may do so either at the meetings or by submitting them to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of the meeting and comments made will be responded to in the Draft Environmental Impact Statement. In addition, the records of the proceeding will be held open through June 1, 1978.

Any questions prior to the meeting concerning the nature of the project or meetings should be directed to Seminole at the address given above.

Dated at Washington, D.C., this 8th day of May 1978.

THOMAS R. MCDONALD,
Acting Assistant Administrator, Electric Rural Electrification Administration.

[FR Doc. 78-12942 Filed 5-11-78; 8:45 am]

[6820-32]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (the Act), and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on June 8, 1978, from 9 a.m. to 6 p.m. and on June 9, 1978, from 9 a.m. to 6 p.m. at 2201 C Street NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold

discussions concerning arms control and related issues which will involved national security matters classified in accordance with Executive Order 11652 dated March 10, 1972.

The meeting will be closed to the public in accordance with the determination of May 2, 1978, made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: May 5, 1978.

SIDNEY D. ANDERSON,
Advisory Committee,
Management Officer.

[FR Doc. 78-12968 Filed 5-11-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 8 p.m. and will end at 10 p.m. on June 2, 1978, Los Angeles Bonaventure Hotel, 404 South Figueroa Street, San Fernando Room, Los Angeles, Calif. 90071.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to discuss State Advisory Committee programming planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Committee.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-12980 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on June 8, 1978, Little America Westgate Hotel, Madrid Room, 1055 Second Avenue, San Diego, Calif. 92101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to review agenda witnesses and hearing book for the one-day open meeting on enforcement of immigration laws.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-12981 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the California Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 5:30 p.m. on June 9, 1978, Little American Westgate Hotel, Seville Room, 1055 Second Avenue, San Diego, Calif. 92101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is an one-day open meeting to collect information on enforcement of immigration laws.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-12982 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning and briefing session of the California Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on June 14, 1978, The Biltmore Hotel, Moroccan Room, 515 South Olive, Los Angeles, Calif. 90013.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to review agenda witnesses and hearing book for the two-day open meeting.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-12983 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the California Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 5:30 p.m. on June 15 and 16, 1978, The Biltmore Hotel, Renaissance Room and the Roman Room, 515 South Olive, Los Angeles, Calif. 90013.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to collect information on enforcement of immigration laws.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-12984 Filed 5-11-78; 8:45 am]

[6335-01]

COLORADO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee

(SAC) of the Commission will convene at 9 a.m. and will end at 12 p.m. on June 3, 1978, Suite 1700, 1405 Curtis Street, Denver, Colo. 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this meeting is to plan activities for the remainder of the fiscal year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12985 Filed 5-11-78; 8:45 am]

[6335-01]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 12 p.m. and will end at 3 p.m. on June 8, 1978, 1328 New York Avenue NW., Washington, D.C. (2nd Floor).

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program plans for fiscal year 1978 and report on the Regional Conference held April 12-14, 1978. The draft report on Revitalization in D.C. will be reviewed for final comments.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12986 Filed 5-11-78; 8:45 am]

[6335-01]

NORTH DAKOTA ADVISORY COMMITTEE

Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee originally scheduled for May 20, 1978, in FR Doc. 78-12372 of page 19699 of the FEDERAL REGISTER has been changed to May 26, 1978 at 12:30 p.m. and will end at 3:30 p.m.

The place of the meeting will remain the same.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12987 Filed 5-11-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

ALLOWANCES AND DIFFERENTIALS

Cost of Living Allowance (COLA-Nonforeign Areas Requirements of 205(b)(2) of E.O. 10,000

Notice

AGENCY: Civil Service Commission.

PURPOSE: Solicitation of Comments on Civil Service Commission Interpretation of Requirements of Executive Order 10,000, as Amended (3 CFR 792 (1943-48 Comp.)).

Notice is hereby given that the Civil Service Commission is soliciting comments from all interested parties on the interpretation it has given to the requirements of section 205(b)(2) of E.O. 10,000 regarding deductions from COLA because of access to commissary and exchange facilities or receipt of governmental housing benefits.

Effective December 5, 1976, the Commission promulgated regulations applicable in Alaska and other COLA areas which established COLA rates to reflect the requirement of section 205(b)(2) of the Executive order that the Commission "make appropriate deductions when quarters or subsistence, commissary or other purchasing privileges are furnished at a cost substantially lower than the prevailing local cost." The Commission interpreted the "are furnished" language of section 205(b)(2) to require that the deductions be made applicable to all employees receiving these privileges or benefits from the Federal government regardless of whether the basis for receiving them if Federal employment itself or other reasons such as military retirement or marriage to an active duty member of the military service. The comments solicited by this notice should address the issue of the appropriateness of the Commission's interpretation of the "are furnished" language of section 205(b)(2) as requiring the COLA reductions to be made regardless of the basis for receipt of the privileges or benefits. Following consideration of comments received, the Commission will decide whether its interpretation is appropriate. These comments are being solicited in compliance with the order of the United States District Court for the District of Alaska in *Curlott* v. *Hampton*, 438 F. Supp. 505 (D.AK 1977).

BACKGROUND: Congress authorized the payment of cost-of-living allowances (COLA) to certain Federal employees working "outside the continental United States or in Alaska" in 5 U.S.C. 5941. This statute directed that the COLA be paid "only in accordance with regulations prescribed by the President establishing the rates and defining the area, groups of positions and classes of employees to which each rate applies." In E.O. 10,000, the President promulgated those regulations, which among other things, directed the Commission to prescribe further regulations regarding the COLA "as may be necessary."

In section 205(b)(2) the President stated: "The * * * Commission shall * * * (2) in fixing the cost-of-living allowance * * * make appropriate deductions when quarters or subsistence, commissary or other purchasing privileges are furnished at a cost substantially lower than the prevailing local cost."

Section 210 of the Executive order directs the Commission to at least annually review the places where the COLA is paid, the rates at which it is paid, and the Commission's own regulations to "insure that payment [of the COLA] shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified."

The Commission first required reduction in the COLA rate pursuant to section 205(b)(2) and its own regulations in Guam and the Virgin Islands in 1974, because survey information gathered during the Commission's annual reviews of living costs experienced by employees in these areas indicated that the living costs of employees receiving the privileges were significantly lower than those of other employees not receiving them. Based on this survey information, the Commission concluded that to set one rate for each area, as it had done until this time, would be inconsistent with the requirement of section 205(b)(2) that rates established take into account these lower costs being experienced by some employees. The establishment of different rates resulted in COLA rate which more accurately reflect living costs of COLA recipients because living costs experienced by each group are considered separately in reaching appropriate indexes.

The implementation of separate rates in Guam and the Virgin Islands in 1974 was the first step in applying section 205(b)(2) to all COLA areas. On December 31, 1975, CSC Bulletin 591-18 notified all agencies that the

actions taken in 1974 would be extended to the remaining COLA areas in 1976. The agencies were instructed to advise their employees working in those areas that the extension of the section 205(b)(2) requirements to all allowance areas could mean lower rates, if warranted by survey findings.

On December 5, 1976, the Commission put into effect the results of its survey findings. This action resulted in a reduction or elimination of allowance rates for certain employees in Alaska and other areas who had access to military, commissary and exchange facilities, occupied Governmental housing units or who had other related benefits. It also led to the litigation which resulted in the district court ordering this notice.

DATE: Comments must be received by June 12, 1978, in order to be considered.

ADDRESS: Submit comments to: Office of Allowances and Special Rates, Pay Policy Division, Bureau of Policies and Standards, Room 3353, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Richard J. Carney, 202-632-5595.

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant To the Commissioners.

[FR Doc. 78-13092 Filed 5-11-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

Z. DRESS CO., AND SELVIN SHOE CO., INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from two firms: (1) Z. Dress Co., 700 Grand Street, Hoboken, N.J. 07030, a producer of shirts and sportswear for women and children (accepted May 1, 1978); and (2) Selvin Shoe Co., Inc., 2413 Eastern Avenue, Baltimore, Md. 21224, a producer of children's shoes (accepted May 4, 1978). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN,
Chief, Trade Act Certification Division Office of Planning and Program Support.

[FR Doc. 78-12828 Filed 5-11-78; 8:45 am]

[3510-25]

Foreign-Trade Zones Board

[Order No. 129]

CITY OF GALVESTON, TEX. FOR A FOREIGN-TRADE ZONE IN GALVESTON

Resolution and Order Approving Application

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board had adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the City of Galveston, Tex., filed with the Foreign-Trade Zones Board (the Board) by the Board of Trustees of the Galveston Wharves on August 19, 1977, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone consisting of two separate sites in Galveston within the Galveston Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes open land on which the possible construction of buildings by parties other than the grantee might be involved, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board

Washington, D.C.

Grant

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN GALVESTON, TEX.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Galveston, Tex. (the Grantee) has made application (filed August 19, 1977) in due and proper form to the Board requesting the establishment, operation and maintenance of a general-purpose foreign-trade zone consisting of two sites in Galveston, within the Galveston Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a general-purpose foreign-trade zone, designated on the records of the Board as Zone No. 36, at the site locations mentioned above and more particularly described on the maps and drawings accompanying the application Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the zone sites shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Ex-

ecutive Officer at Washington, D.C. this 4th day of May 1978, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE,
Executive Secretary.

[FR Doc. 78-12898 Filed 5-11-78; 8:45 am]

[3510-25]

[Order No. 130]

OUNTY OF ORANGE, N.Y. FOR A FOREIGN-TRADE ZONE IN THE TOWN OF NEW WINDSOR, N.Y.

Resolution and Order Approving Application

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the County of Orange, N.Y., filed with the Foreign-Trade Zones Board (the Board) on September 19, 1977, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone consisting of two sites within the Town of New Windsor, Orange County, adjacent to the New York City Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the construction of buildings by parties other than the grantee, this approval includes authority to the Grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the Grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Excecutive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board

Washington, D.C.

Grant

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN THE TOWN OF NEW WINDSOR, COUNTY OF ORANGE, N.Y.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the County of Orange (the Grantee) has made application (filed September 19, 1977) in due and proper form to the Board requesting the establishment, operation and maintenance of a general-purpose foreign-trade zone consisting of two sites in the Town of New Windsor, Orange County, N.Y., adjacent to the New York City Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a general-purpose foreign-trade zone, designated on the records of the Board as Zone No. 37, at the site locations mentioned above (Site 1—Sage Building) (Site 2—industrial park) and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the zone sites shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone sites.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 4th day of May 1978, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE,
Executive Secretary.

[FR Doc. 78-12899 Filed 5-11-78; 8:45 am]

[3510-25]

[Order No. 131]

SOUTH CAROLINA STATE PORTS AUTHORITY FOR A FOREIGN-TRADE ZONE IN SPARTANBURG COUNTY, S.C.

Resolution and Order Approving Application

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the South Carolina State Ports Authority, filed with the Foreign-Trade Zones Board (the Board) on October 3, 1977, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Spartanburg County, S.C., within the Greenville/Spartanburg Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400,815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board

Washington, D.C.

Grant

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN SPARTANBURG COUNTY, S.C.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to

corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the South Carolina State Ports Authority (the Grantee) has made application (filed October 3, 1977) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone in Spartanburg County, S.C., within the Greenville/Spartanburg Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 38, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 4th day of May 1978, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE,
Executive Secretary.

[FR Doc. 78-12900 Filed 5-11-78; 8:45 am]

[3510-25]

Industry and Trade Administration

COLORADO STATE 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 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00093. Applicant: Colorado State University, Department of Biochemistry, Fort Collins, Colo. 80523. Article: LKB 2127-001 Tachophor complete with power Supply Unit. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of purity of protein in snake venoms and lizard venoms which will contribute to more efficient treatment in envenomation.

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 the capability for counter flow isotachorphoresis. The Department of Health, Education, and Welfare advises in its memorandum dated April 11, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

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.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12946 Filed 5-11-78; 8:45 am]

[3510-25]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, NATIONAL INSTITUTE OF DENTAL RESEARCH

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 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00092. Applicant: DHEW, PHS, NIH, National Institute of Dental Research, Building 30, Room B-20, 9000 Rockville Pike, Bethesda, Md. 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome complete with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for electron microscopical studies of the neurons of trigeminal nucleus caudalis, a region of the brain which receives pain and temperature input from the face and oral cavity. These studies examine the morphology, synaptic connections, development of neurons in trigeminal pain pathways as well as their response to the loss of input from the teeth. The objectives of these studies are to understand basic pain mechanisms and mechanisms of chronic pathological pain states.

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 a cutting speed range of 0.1 to 60 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated April 17, 1978, that (1) the cutting speed range of the foreign article is pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the

foreign article for such purposes as this article is intended to be used.

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.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12947 Filed 5-11-78; 8:45 am]

[3510-25]

GEOLOGICAL SURVEY—RESTON

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 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00112. Applicant: U.S. Geological Survey Water Resources Division, National Center, Mail Stop 430, 12201 Sunrise Valley Drive, Reston, Va. 22092. Article: Water Level Gauge, Model 750 and Accessories. Manufacturer: Applied Microsystems, Canada. Intended use of article: The article is intended to be used to measure and record in situ, precisely timed long-term sequences of water-level elevations in the shallow waters of lakes, waterways, estuaries, and coastal embayments. The data are to be used, in connection with other data collected from surface vessels and from the ERTS satellites. These data will provide the input values used to initialize, calibrate, and otherwise verify large-scale, mathematical/numerical computer models. The field data together with the data produced by the computer simulation model are to be used to quantitatively and qualitatively assess the environment impact of existing features, as well as, alternative proposed changes to be introduced into the waterbody under study.

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 itended to be used, is being manufactured in the United States.

Reasons: The foreign article provides (1) high resolution and accuracy to better than 0.001 and 0.005 percent, respectively, of the scale range, (2) transmission of data via underwater acoustics, (3) self-contained operation capable of recording digitally on magnetic tapes, (4) rapid machine processing of collected data, and (5) a long deployment interval (up to two years possible). The National Bureau of Standards advises in its memorandum dated April 17, 1978 that (1) all capabilities of the 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.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12948 Filed 5-11-78; 8:45 am]

[3510-25]

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 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00119. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Optoelectronic Movement Monitoring System. Manufacturer: Selective Electronic Co., Sweden. Intended use of article: The article is intended to be used to investigate the trajectories of the arm and consequently to advance the understanding of the way in which the central nervous system controls the large numbers of degrees of freedom of the human multi-joint apparatus.

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 up to 30 targets and a sampling rate of 10,000 points per second. The Department of Health, Education, and Welfare advises in its memorandum dated April 19, 1978 that (1) the features of the article described above are pertinent to the applicant's intended uses, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

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).

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12949 Filed 5-11-78; 8:45 am]

[3510-25]

NORTH CAROLINA STATE 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 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00096. Applicant: North Carolina State University, Department of Botany, 2214 Gardner Hall, Raleigh, N.C. 27607. Article: Combination Scanning Microinterferometer and Scanning Microdensitometer, Model M860010 with camera accessories. Manufacturer: Vickers Instrument Inc., United Kingdom. Intended use of Article: The article is intended to be used for the measurement of amounts of biological macromolecules DNA, RNA, proteins, and enzyme substrate precipitates at the cell level in order to procure quantitative data on the behavior of genetic

material during growth and differentiation of prokaryotic and ukaryotic organisms. Other phenomena to be studied will include endopolyploidy, polyploidy pattern recognition, intra and interspecific plant and avian DNA values, sex determination and internal DNA reference standard establishment. In addition, the article will be used to provide basic understanding of quantitative cytochemistry and its application to both basic and applied plant science and biomedical reserach in the courses: Botany/Zoology 414 Cell Biology, Botany 421-510 Plant Anatomy, Botany 620 Advanced Plant Taxonomy, and Botany 590 Quantitative Microscopy.

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 microspectrophotometric measurement of small (0.25 to 0.5 micron) areas. The Department of Health, Education, and Welfare advises in its memorandum dated April 19, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

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.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12950 Filed 5-11-78; 8:45 am]

[3510-25]

PURDUE 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 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00324. Applicant: Purdue University, Purchasing Department, ADMS Building, West Lafayette, Ind. 47907. Article: DDV-11-C Rheovibron Dynamic Viscoelastometer, DDV-LFS Low Frequency Sweep System, and DDV-SF Set Grips for testing Shear Modulus. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article will be used for studies of a range of glassy and crystalline materials primarily inorganic in character, which are of interest in materials science. The experiment will consist of determinations of the temperatures at which small fibers of these glasses, or small crystals of B-alumina type materials, dissipate mechanical energy at fixed frequency of mechanical stressing, and of the frequency range over which mechanical energy is dissipated at fixed temperatures. The objectives of this experiment are (i) to characterize the shape of the mechanical loss spectrum to permit comparison with the shape of the electrical loss spectrum at the same temperature and pressure for superionic conducting crystalline materials with this object of understanding the material characteristics necessary to produce superionic conducting ability, and (ii) to study the shape and temperature dependence of the mechanical loss spectrum in both primary and secondary relaxation regions in glassy materials to permit comparisons with electrical relaxation and magnetic relaxation characteristics.

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 the capability for measurements on samples as small as 5 x 0.4 x 0.05 cubic centimeters. The National Bureau of Standards advises in its memorandum dated March 1, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended use, 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.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12951 Filed 5-11-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before June 1, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00200. Applicant: University of California—Lawrence Berkeley Laboratory, L Cyclotron Road, Berkeley, Calif. 94720. Article: High Resolution Goniometer. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is an accessory to an existing electron microscope and will be used for observation of thin sections of biological material; blood, bone marrow, lungs, conjunctiva, brain, and neural ganglia of pollutant-exposed animals will be examined. In addition, the hydrocarbon and rubber producing tissue of Guayule will be studied. Changes in morphology, enzyme content and localization membrane relationships, etc. which occur in the cells of these tissues in response to non-nuclear pollutants will be investigated. The influence of magnetic fields on the growth and architecture of the brain and the organization of actin in non-muscle cells, and the expression of viruses associated with atherosclerosis and cancer will be studied.

Application received by Commissioner of Customs: April 14, 1978.

Docket No.: 78-00209. Applicant: Virginia Commonwealth University-Medical College of Virginia, Box 17, MCV Station, Richmond, Va. 23298.

Article: Electron Microscope, Model EM 400 with Goniometer Stage and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to examine the ultrastructural pathology of a wide variety of animal and human tissues. Animal experiments will be conducted in the areas of infection, immunology, cancer, and vascular disease, etc. and the diseased tissues will be studied with the electron microscope. Analysis of diseased human tissue obtained by biopsy or autopsy will also be carried out using the article. Application received by Commissioner of Customs: April 24, 1978.

Docket No.: 78-00210. Applicant: University of Florida, Department of Pathology, College of Medicine, J. Hillis Health Center, Gainesville, Fla. 32610. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the ultrastructural study of mammalian tissue, isolated cellular organelled, and single cell cultures. Plant, animal, and fungal tissues will be embedded in hardened epoxy resins for sectioning. Experiments to be conducted will include ultrastructural studies on cellular injury in the inner cortex of the rat kidney resulting from oxalosis. In addition, plant and fungal material which manufacture calcium oxalate crystals will be examined ultrastructurally. Application received by Commissioner of Customs: April 24, 1978.

Docket No.: 78-00211. Applicant: Dartmouth College, Gilman Hall, Hanover, N.H. 03755. Article: Electron Microscope, Model JEM-100CX with accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the following research projects in the general areas of cellular, molecular and developmental biology:

(1) Exploring the mechanisms of a number of motile systems including amoeboid movement, cytoplasmic streaming in plant and animal cells and in slime molds, axoplasmic transport, reticular bidirectional streaming in foraminifera and mitotic movements;

(2) The study of plant mitosis;

(3) The study of rotational cytoplasmic streaming in *Nitella;*

(4) Study of the fine structure of the rotifer resting egg which is part of his overall program of research dealing with the life cycles of rotifers and other invertebrates;

(5) Investigation of cell movement mechanisms and in particular is interested in the mechanisms for the growth and development of microvilli;

(6) Investigation of the membrane ultrastructure of the synapse, photosynthetic bacteria, reconstituted membranes and the study of the interaction between DNA and certain binding proteins; and

(7) Study of microtubule formation in cells and in vitro.

The article will also be used in the course Biology 67. Techniques in Electron Microscopy to familiarize students with the various techniques of high resolution transmission and scanning electron microscopy. Application received by Commissioner of Customs: April 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12953 Filed 5-11-78; 8:45 am]

[3510-25]

VA HOSPITAL—IOWA CITY

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 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00082. Applicant: VA Hospital, Highway 6, Iowa City, Iowa 52240. Article: High Resolution Goniometer Stage for Elmiskop 101 and Accessories. Manufacturer: Siemens Corp., West Germany. Intended use of article: The article is an accessory to an existing electron microscope which will be used to study ultrathin sections of: Tooth dentin and enamel; endothelial, pericyte, and smooth muscle cells cultured from the blood vessels of the retina, optic disc, and optic nerve; and junctional complexes of hepatocytes. The properties to be investigated include: The geometry of early crystalline phases in dentin and enamel; the formation and differentiation of junctional complexes in cultured retinal endothelial cells, particularly the resolution of differences between tight and gap junctions. The permeability and structure of liver cells tight junctions will also be examined.

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 Health, Education, and Welfare (HEW) advises in its memorandum dated April 19, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other 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.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12952 Filed 5-11-78; 8:45 am]

[3510-03]

Maritime Administration

[MA Design IB6-MT-130a]

TANKER CONSTRUCTION PROGRAM AND BULK CHEMICAL CARRIER CONSTRUCTION PROGRAM

Determination That Vessels Which Are the Subject of Certain Applications Are Covered by Tanker Program and Chemical Carrier Program

An environmental impact statement entitled, Maritime Administration Tanker Construction Program, NTIS Report No. EIS730-725F, was published on May 30, 1973. The statement concerns proposed assistance to private industry to aid in the construction in the United States of a fleet of oil-carrying vessels during the decade of the 1970's. Vessel classes included range from approximately 35,000 DWT to 400,000 DWT.

An environmental impact statement entitled, Maritime Administration Bulk Chemical Carrier Construction Program, NTIS Report No. MA-EIS-7302-74043-F, was published on August 9, 1974. The statement concerns proposed assistance to private industry to aid in the construction in the United States of a limited number of highly specialized bulk chemical carriers during the next 10 years. Vessel classes included are in accordance with the IMCO Chemical Code

and the U.S. Department of Transportation (U.S. Coast Guard) Safety Rules For Self-Propelled Vessels Carrying Hazardous liquids.

The Maritime Subsidy Board has received the following applications for assistance under the Construction-Differential Subsidy Program and has determined that the vessels to be constructed with such assistance are of the type, design and characteristics of those vessels treated in the above mentioned environmental impact statements. As a consequence the Board has found that no supplement to the impact statements mentioned herein, nor any new impact statement need be prepared with respect to these vessels. Future Board action with respect to the applications will be, from an environmental standpoint, based on the above mentioned impact statements. These applications are:

SUWANNEE RIVER FINANCE, INC., for one Integraged Tug-Barge Combination Chemical and Liquid Bulk Carrier; SUWANNEE RIVER SPA FINANCE, INC., for one Integrated Tug-Barge Combination Chemical and Liquid Bulk Carrier; SUWANNEE RIVER PHOSPHATE FINANCE, INC., for one Integrated Tug-Barge Combination Chemical and Liquid Bulk Carrier. They are to be under 20,000 DWT when carrying bulk oil and about 39,500 DWT when carrying Super Phosphoric Acid as proposed to be built to plans and specifications developed for the Owners by J. J. Henry Co., Inc., Naval Architects and Marine Engineers. This class of vessel when used as a liquid bulk carrier is described in the EIS for Tanker Construction as an example of a "Handy Tanker" given in section II. When used in the chemical carrier mode it is described as a class in sections I and IV and in specific in Appendix AI-10. The environmental impact of such designs are covered in the Statements in various sections.

The bases for the Board's determinations, as described herein, are available for public inspection in the Office of the Secretary, room 3099-B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, D.C. 20230.

By Order of the Maritime Subsidy Board, Maritime Administration.

Dated: May 9, 1978.

ROBERT J. PATTON, Jr.,
Assistant Secretary.

[FR Doc. 78-13016 Filed 5-11-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

ATLANTIC GROUNDFISH

Public Hearing and Notice of Availability of Draft Supplement to Final Environmental Impact Statement

The Secretary of Commerce and the New England Fishery Management Council announce a series of public hearings on the fishery management plan for Atlantic Groundfish as amended and the draft Supplement No. 2 to the Final Environmental Impact Statement. The hearings are being held to receive public comment on the current and proposed regulations governing the cod, haddock, and yellowtail flounder fisheries in the fishery conservation zone under the Fishery Conservation and Management Act of 1976 (the Act).

The hearings will be held from 7 p.m. to 10 p.m. at the following locations and dates:

May 22—Holiday Inn, Hathaway Road, New Bedford, Mass.

May 24—Public Safety Building, 109 Middle Street, Portland, Maine.

May 30—Holiday Inn, Junction of Routes 1 and 128, Peabody, Mass.

May 31—Holiday Inn, Route 25, Riverhead, Long Island, N.Y.

Each hearing will consist of two parts: (1) a Secretarial hearing on the current fishery management plan, as amended; and (2) a joint hearing on the draft Supplement No. 2 to the Final Environmental Impact Statement and proposed amendments to the fishery management plan prepared by the New England Fishery Management Council. The hearings are being held concurrently for the convenience of the public.

The Secretarial hearing will be chaired and conducted by an official of the National Marine Fisheries Service, NOAA, pursuant to section 305(b) of the Act. The purpose of the Secretarial hearing is to supplement the record with additional information and public comment on the following items:

1. Optimum yields of cod and haddock.
2. Allocation of optimum yields of cod and haddock among recreational and commerical (United States and Canadian) users.
3. Vessel class allocation system.

The second part of each hearing will be conducted jointly by the New England Fishery Management Council and the National Marine Fisheries Service. This portion of the hearing on the draft Supplement No. 2 to the Final Environmental Impact Statement dated May, 1978, will be chaired by an official of the National Marine Fisheries Service, NOAA, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969. The portion of the hearing on the proposed amendments to the fishery management plan for Atlantic Groundfish will be chaired by a representative of the New England Fishery Management Council. The purpose of this portion of the hearing is to provide information to the public and receive public comments and views on the following Council recommendations:

1. Increase the optimum yield of haddock to 20,000 metric tons (mt) from 8,000 mt.
2. Increase the optimum yield of cod in the area of Georges Bank and southern New England to 26,000 mt from 22,000 mt.
3. Establish recreational allocations (charter and headboat industry) for cod of 1,000 mt in the Georges Bank-Southern New England area and haddock in all areas of 2,000 mt.
4. Establish a minimum mesh size for gillnets used in the groundfish fishery of 5½ inches.
5. Require mandatory retention of all regulated species taken; i.e., a "no discard" rule.
6. Establish new incidental catch provisions for vessels not employing groundfish gear.
7. Establish revised fishery closure procedures.

This Notice also announces the availability of the draft Supplement No. 2 to the Final Environmental Impact Statement, proposed amendments to the Fishery Management Plan. Large numbers of copies have been distributed to individuals in the industry, conservation organizations, States, and Federal agencies. A copy of the document is available for public review at:

1. Northeast Regional Office, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.
2. New England Fishery Management Council Office, 1 Newbury Street, Peabody, Mass., 01960.
3. Mid-Atlantic Fishery Management Council Office, Room 2115, Federal Building, North and New Streets, Dover, Del., 19901.

Copies of the document will be available to interested members of the public at the public hearings or may be obtained by contacting one of the three offices listed above.

Written comments on any of the items identified for public discussion may be submitted by any interested member of the public. Comments on the items to be discussed in the Secretarial hearing should be sent to:

Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

as follows: Item 1 (optimum yield) and Item 2 (allocation)—no later than May 25; Item 3 (vessel class allocation system)—no later than June 25.

Comments on the items to be discussed in the joint hearing should be sent no later than June 1 to:

Regional Director, Northeast National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

To ensure timely consideration of comments sent to the Regional Director, the outside of the envelope should be marked: *Groundfish, SEIS, May 1978.*

Dated: May 9, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-12990 Filed 5-11-78; 8:45 am]

[3510-12]

U.S./FOREIGN FISHING VENTURES WITHIN FISHERY CONSERVATION ZONE

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Policy Statement.

SUMMARY: The National Oceanic and Atmospheric Administration ("NOAA") announces a policy regarding foreign vessel permit applications to receive U.S. harvested fish from vessels in the U.S. fishery conservation zone (the "FCZ"). Such permit applications will be approved if the application and the activities described therein meet the requirements of the Fishery Conservation and Management Act of 1976 (the "Act") and other applicable law.

DATE: This policy is effective May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Alfred J. Bilik, Enforcement Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235, telephone number 202-634-7265.

SUPPLEMENTARY INFORMATION: On February 8, 1978 an interim policy was proposed for public comment, 43 FR 5398.

The proposed interim policy, in addition to considering conservation and management factors, would have granted a preference to the domestic processing industry by allowing permits to be approved only when "the capability and intent of the U.S. fishing industry to harvest fish * * * exceeded the capability and intent of the U.S. processing industry to process such fish." Comments on the proposed interim policy were received until February 23, 1978. Additionally, certain other comments concerning the legal authority of the Secretary to adopt the proposed interim policy were received after the comment period ended. All of these comments were considered in the adoption of this final policy.

Several of the comments questioned the legal authority of the Secretary of Commerce (the "Secretary") under the Act to adopt a policy which would deny a foreign fishing permit application for support activities at sea for reasons other than conservation and management, or failure to meet the requirements of the Act. Additionally, many persons commented that the Secretary of Commerce does not have the authority under the Act to adopt a policy for approving or disapproving applications for foreign fishing permits which would grant a preference to U.S. processors over foreign processors and thereby limit the opportunity of U.S. fishermen to sell fish to foreign vessels in the FCZ.

Several commenters focused on the domestic advantages and disadvantages which would have been created by our proposed policy. Some fishermen objected to the proposed interim policy because it would have limited their access to foreign markets. Some domestic processors supported the proposed interim policy since it would have allowed a better opportunity to develop a capacity in underutilized fisheries and would have protected existing markets for more fully developed fisheries. Others, however, opposed the approval of any foreign fishing permit applications for the receipt of U.S. harvested fish in the FCZ and alleged that such activities would constitute unfair competition. Additionally, several localities and Regional Fishery Management Councils opposed the proposed interim policy since it would have allowed foreign competition which they believed could hinder the development of local industry and diminish the resulting economic benefits. These Regional Councils believe more time should be allowed to monitor progress by domestic processors toward utilizing species which are the subject of present applications or to evaluate more information on the impacts of such operations.

Our analysis and consideration of these comments, as well as our review of the legal and policy issues, has led to the conclusion that a permit approval/disapproval policy which gives a preference to domestic processors should not be adopted. We believe the Secretary lacks sufficiently clear legislative direction to adopt a policy which considers factors not directly related to conservation and management of the resource and the requirements of the Act. In addition, since the FCMA is a conservation and management statute, NOAA has concluded that decisions to approve or deny foreign fishing permit applications for the receipt of U.S. harvested fish in the FCZ should not be made on the basis of the competitive factors referred to above.

Other comments focused on the procedural aspects of the proposed policy. These comments concerned the role of the regional Councils, opportunity for public comments on a final decision by the Secretary and the creation of an administrative record for judicial review of the permit decision. We have determined that existing statutory provisions adequately address these procedural matters, and that there is no need to incorporate special procedures into this final policy.

Several commenters raised several international problems which would have been created by implementing the policy as originally proposed. These problems included the inconsistency of the proposed policy with the Administration's current foreign trade policy of non-interference with the export of food products; and the possibility that foreign nations will view our policy as being protectionist, thereby causing those nations to adopt similar policies. We have determined that these concerns are valid and substantial, and have altered our policy accordingly.

In light of NOAA's review of the proposed interim policy and the comments received during the public comment period, the proposed interim policy has been revised as set forth below.

POLICY

The Secretary of Commerce will encourage the development of the U.S. fishing industry consistent with the purposes of the Act and other applicable law. As one means of carrying out this objective, the Secretary may approve applications for foreign fishing vessel permits to allow foreign vessels to receive U.S. harvested fish from vessels within the U.S. fishery conservation zone. Any such permits granted will be approved if the application and the activities described therein meet the requirements of the Act (including the national standards) and other applicable law.

Any permits issued will contain appropriate conditions and restrictions, which may include (but are not limited to) the following:

1. The vessels may receive only species designated in the permit;

2. When fish are transferred to the vessel, from either a U.S. or foreign vessel, the information required by 50 C.F.R. section 611.9(b) shall be recorded in the receiving vessel's log before the next transfer operation begins;

The Secretary may include any other restriction or condition deemed necessary for conservation and management purposes or as may be required under existing FMP's or PMP's.

In addition, current Foreign Fishing Regulations require foreign vessels to take aboard an observer at NMFS's request, and to maintain logs of all fish transferred, including information about the species and amounts of fish, and name and nationality of vessels involved.

The policy will apply to applications for foreign fishing permits to allow foreign vessels to receive U.S. harvested fish from vessels in the U.S. fishery conservation zone. This policy is established on an interim basis.

Dated: May 10, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-13097 Filed 5-11-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1978 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 12, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On February 17, 1978 and March 10, 1978, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 6992 and 43 FR 9842) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodities and the service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1978:

CLASS 6532

Gown, Hospital, Personnel (SH)
6532-01-045-5380 (Medium)
6532-01-045-5381 (Large)

SIC 0782

Lawn Maintenance (SH)
Naval Weapons Station
Yorktown, Virginia
for the following areas:
1. Area 6 Officer's Club Building 58
2. Area 7 Buildings 380A, 380B and Credit Union
3. Area 8 Industrial Area
4. Area 9 Industrial Area

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-12976 Filed 5-11-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has recieved a proposal to add to Procurement List 1978 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 14, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severly Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1978, November 14, 1977 (42 FR 59015):

CLASS 8405

Strap, Chin, Vinyl
8405-00-152-3952

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-12977 Filed 5-11-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

BOARD OF VISITORS FOR NDU AND DIS

Consolidation

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the consolidation of the Boards of Visitors for the National Defense University (NDU) and the Defense Intelligence School (DIS) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The consolidated committee will be known as the Board of Visitors for NDU and DIS.

The nature and purpose of the Board of Visitors for NDU and DIS is to provide advice to the president, NDU, the Director of the Defense Intelligence Agency and the Commandants of the National War College, Industrial College of the Armed Forces, and the DIS on matters relating to mission, policy, faculty, students, curricula, educational methodology, research, and administration for both resident and non-resident programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 19, 1978.

[FR Doc. 78-12973 Filed 5-11-78; 8:45 am]

[3810-70]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC 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 Scientific Advisory Committee will be held as follows:

Tuesday, June 20, 1978, San Bernardino, Calif.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a study on ICBM Refire potential.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 9, 1978.

[FR Doc. 78-12975 Filed 5-11-78; 8:45 am]

[3810-70]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC 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 Scientific Advisory Committee will be held as follows:

Wednesday, Thursday, Friday, June 14, 15, 16, 1978, Pomponio Plaza, Rosslyn, Va.

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 United States Code and therefore will be closed to the public. Subject

matter will be used in a study on nuclear weapon technology.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 9, 1978.

[FR Doc. 78-12974 Filed 5-11-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

CONDUCT OF EMPLOYEES

Waiver Pursuant to Subsection 602(c) of the Department of Energy Organization Act (Pub. L. 95-91).

Subsection 602(c) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") authorizes the Secretary of Energy to grant waivers from the divestiture requirements of subsection 602(a) of the Act to "supervisory employees" (as defined in subsection 601(a) of the Act) of the Department of Energy who have financial interests in "energy concerns" (as defined in subsection 601(b) of the Act), where exceptional hardship would result or where such interest is vested.

It has been established to my satisfaction that the interest of the individual "supervisory employee" of the Department of Energy whose name is listed below satisfies the requirements of subsection 602(c) of the Act. Accordingly, I have granted him a waiver from the divestiture provisions of subsection 602(a) of the Act for his vested insurance interests until such time as the entity in which he has an interest no longer qualifies as an "energy concern" within the meaning of the Act, or until his employment with the Department of Energy terminates, whichever first occurs. Additionally, I have granted a waiver of the provisions of subsection 602(a) of the Act for four months from the date he assumed office in the Department of Energy in order to allow the employee to sell stock to be received from the Rockwell Savings Plan on the grounds that to do otherwise would cause an extreme hardship to result.

Name and Energy Concern: Dale D. Myers, Rockwell International.

The employee named above will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect on the energy concern in which he has an interest, unless the Secretary, on advice of counsel, concludes that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him.

Dated: May 3, 1978.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-12927 Filed 5-11-78; 8:45 am]

[3128-01]

RESEARCH FOR BRAILLE COMMUNICATION

Grant of Exclusive License

In accordance with the Department of Energy *Standard Specifications for the Granting of Patent Licenses*, 10 CFR 781, the Department of Energy announces the grant to Research for Braille Communication, of Chicago, Ill., a not-for-profit corporation, an exclusive license for the manufacture, use, and sale in the United States of the invention described in U.S. Patent No. 3,624,772, entitled "Reading and Writing Machine Using Raised Patterns." The effective date of the license is March 16, 1978. The duration of the exclusive license is for five (5) years.

Notice of intent to grant the subject exclusive license was published in 42 FR 41469, August 17, 1977.

Dated at Washington, D.C., this 9th day of May, 1978.

WILLIAM B. DAVIS,
Deputy Director of Administration, Department of Energy.

[FR Doc. 78-12926 Filed 5-11-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Department of Energy (DOE) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA) and Chapter II, Title 10, Code of Federal Regulations (10 CFR Parts 303 and 305) to the following powerplants:

Docket No.	Owner	Generating station	Powerplant No.	Location
DCU-166	City of Colorado Springs, Department of Public Utilities.	Martin Drake	5	Colorado Springs, Colo.
DCU-167	do	do	6	Do.
DCU-168	do	do	7	Do.

DOE hereby also gives notice of the opportunity for oral and written presentation of data, views and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3(b), require that DOE find that the powerplant had on June 22, 1974, or thereafter acquired or was designed with, the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. DOE's proposed findings regarding the above-named powerplants, as well as its proposed conclusions and rationale with respect to these findings, are set out in the appendix to this notice. These findings, conclusions, and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information made available to DOE. The findings, conclusions, and rationale will be included, with any amendments, for any Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may de-

termine to issue a Prohibition Order to the above-named powerplants. The Prohibition Order will not become effective, however, (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified the DOE, as required by section 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413 (d)(5) and the act of August 7, 1977, Public Law 95-95, section 112, or (b) if no such notification is given by EPA, the date that the Administrator of EPA certifies is the earliest date that the particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, *supra*; Public Law 95-95, *supra*; and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b), and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to a powerplant, DOE shall perform an analysis of the environmental impact of the issuance of such a Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the prohibition Order and that have not been addressed in the Final Revised (Programmatic) Environmental Impact Statement (FES 77-3, dated May 1977) or in other official documents made publicly available.

If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to any powerplant that has been issued an order. A powerplant to which a Prohibition Order is issued may be eligible for a delayed compliance order issued by EPA. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons.

Public comment on the proposal to issue a Prohibition Order to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should make reference to the relevant docket number(s).

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d), DOE hereby announces that a public hearing to receive oral presentation of data, views and arguments of persons interested in the proposed Prohibition Order will be held beginning at 9 a.m. on May 31, 1978 in the El Paso County Centennial Hall, Centennial Hall Auditorium, 200 South Cascade, Colorado Springs, Colo. 80903. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Luther S. Clemmer, Department of Energy, Region VIII, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, 303-234-3596. The request should be received before 4:30 p.m., May 22, 1978.

The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a telephone number where the person may be contacted. Speakers will be contacted by a DOE representative before 4:30 p.m., May 25, 1978, and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Luther S. Clemmer, Department of Energy, 1075 South Yukon, P.O. Box 26247, Belmar Branch, Lakewood, Colo. 80226, before 4:30 p.m., May 30, 1978.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and be subject to time limitations.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with pertinent written comments submitted to DOE in the course of the hearing, will be retained by DOE and made available for inspection and copying at the Freedom of Information reading room, located in Room 2107, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, and DOE Regional Office VIII, Room 206, 1075 South Yukon, P.O. Box 26247, Belmar Branch, Lakewood, Colo. 80226, between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views and arguments with respect to this Notice of Intention to Issue a Prohibition Order to Public Hearing Management, Box TB, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which

they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Martin Drake Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., June 12, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2(a) and (b) of ESECA (10 CFR Parts 303 and 305) are available for inspection at the following DOE Regional Offices:

Region	Address	Phone
I	Director for Fuels Regulation, 150 Causeway St., Room 700, Boston, Mass. 02114.	617-223-5265
II	Director for Fuels Regulation, 26 Federal Plaza, Room 3200, New York, N.Y. 10007.	212-264-8051
III	Director for Fuels Regulation, 1421 Cherry St., Room 1001, Philadelphia, Pa. 19102.	215-597-3915
IV	Director for Fuels Regulation, 1655 Peachtree St., NE., 8th floor, Atlanta, Ga. 30309.	404-881-2722
V	Director for Fuels Regulation, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Ill. 60604.	312-353-3053
VI	Director for Fuels regulation, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235.	214-749-7705
VII	Director for Fuels Regulation, 324 East 11th St., Kansas City, Mo. 64106.	816-374-2936
VIII	Director for Fuels Regulation, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226.	303-234-2596
IX	Director for Fuels Regulation, 111 Pine St., San Francisco, Calif. 94111.	415-556-4640
X	Director for Fuels Regulation, 1992 Federal Building, 915 Second Ave., Seattle, Wash. 98174.	206-442-7320

Any questions regarding this notice should be directed to the DOE National Office as follows: Department of Energy, Code DCU (Prohibition Order: Martin Drake Powerplant), Washington, D.C. 20461, 202-254-5436.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; the Department of Energy Organization Act (Pub. L. 95-91); E.O. 11790 (39 FR 23185), E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., May 8, 1978.

BARTON R. HOUSE,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX—PROPOSED FINDING AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and DOE regulations require DOE to make certain findings before issuing a Prohibition Order to a powerplant. DOE's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Powerplant No.	Location
DCU-166	City of Colorado Springs, Department of Public Utilities.	Martin Drake	5	Colorado Springs, Colo.
DCU-167	do	do	6	Do.
DCU-168	do	do	7	Do.

These findings, which are now proposed by DOE, are based on information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order. DOE intends, as necessary, to fully update, for purposes of currency, the information and data pertinent to the issuance of this NOI prior to the issuance of a Prohibition Order. DOE invites the utility or other interested persons to submit more current information or data, if such is available.

City of Colorado Springs, Department of Public Utilities shall be referred to as the "utility" and as "CCS-DPU."

I. *Capability and necessary plant equipment to burn coal*

DOE proposes to find that, on June 22, 1974, Powerplants Number 5, 6 and 7 at Martin Drake Generating Station (Martin Drake 5, 6 and 7) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Energy Regulatory Commission by CCS-DPU and a site visit performed by DOE representatives, it has been determined that each powerplant had in place, on June 22, 1974, boilers that were capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that, on June 22, 1974, the powerplants may not have been burning coal as their primary energy source.

The 1976 annual fuel consumption information reported by CCS-DPU was used to calculate the heat input of Martin Drake boilers 5, 6 and 7. Boiler No. 5 was 81 percent coal and 19 percent natural gas, boiler No. 6 was 91 percent coal and 9 percent natural gas and boiler No. 7 was 91 percent coal and 9 percent natural gas.

B. Based on information CCS-DPU provided to DOE during the above-mentioned site visit and other information available to DOE, it was determined that Martin Drake 5, 6 and 7 would have to upgrade an ash handling system, a waste-water treatment system and a solid waste disposal system in order to burn coal 100 percent of the time.

C. DOE proposes to find that on June 22, 1974, Martin Drake 5, 6 and 7 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, absence of the facilities listed in paragraph B, above, does not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA*

DOE proposes to find that the burning of coal at Martin Drake 5, 6 and 7 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESCEA. This finding is based upon the presumption that Martin Drake 5, 6 and 7 will be operated at a 60.3 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 32 years (as of the date of this NOI), are expected to have at least 31 years of remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*

1. *Costs associated with burning coal.*

a. *Capital investment costs.*—The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Martin Drake 5, 6 and 7 are estimated to be approximately $3,406,000. This estimate is based on information developed by PEDCo as a result of its site visit.

b. *Annual operating and maintenance costs.*—Based upon information supplied by CCS-DPU and by PEDCo, the expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal at Martin Drake 5, 6 and 7 is estimated to be approximately $137,000 per year.

c. *Fuel costs.*—(1) Based on information supplied by the utility, the price of natural gas available to Martin Drake 5, 6 and 7 is approximately $1.18 per million Btu's. This

represents $1.17 per Mcf of natural gas, assuming 987,000 Btu's per Mcf.

(ii) Based on information supplied by the utility to the Federal Energy Regulatory Commission (FERC) and from other sources available to DOE, the price of coal available to Martin Drake 5, 6 and 7 is approximately $.97 per million Btu's. This represents $20.19 per ton of delivered coal, assuming 20.8 million Btu's per ton.

(iii) DOE estimates that the burning of coal in lieu of natural gas by these powerplants will result in an overall reduction of approximately $0.21 per million Btu's, or $327,000 per year in fuel costs.

(iv) Based on information supplied by CCS-DPU, DOE has determined that Martin Drake 5, 6 and 7 are presently burning coal and should continue to experience curtailment of their supply of alternate fuel, natural gas. DOE, therefore, proposes to find that Martin Drake 5, 6 and 7 can continue to burn coal as their primary energy source with a decrease in fuel costs as a result of a prohibition order.

d. *Total annual costs associated with conversion.*—As a result of the conversion of Martin Drake 5, 6 and 7, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $592,000, assuming coal is used to replace natural gas.

2. *Reasonableness of costs of conversion.*

The foregoing analyses of the costs of conversion provides the basis for deciding whether the conversion of Martin Drake 5, 6 and 7 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $455,000 (this is based on a fixed charge rate of 13.4 percent of the total initial capital investment of $3,406,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $137,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $327,000 (see paragraph A.1.c.). The estimated net annual increase in cost of producing electricity at Martin Drake 5, 6 and 7 after conversion is estimated to be $265,000.

The use of coal at Martin Drake 5, 6 and 7 will result in an estimated annual equivalent savings of 1,563,000 Mcf of natural gas that otherwise would be used in providing steam for electric power generation. The cost of conversion per Mcf of natural gas is estimated to be $0.17.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Martin Drake 5, 6 and 7, DOE concludes that the cost, even using current prices, per Mcf of natural gas saved, is not unreasonable. This determination is based on consideration of the substantial savings of natural gas that will result from this conversion. This determination also takes into account the fact that DOE has determined that Martin Drake 5, 6 and 7 should continue to experience curtailment of its alternate fuel, natural gas. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 31 years remaining useful life of the powerplants after conversion, the size and resources of the utility as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increase in the fuel cost difference in favor of coal.

3. *Financial capabilities of CCS-DPU.*

a. *Recovery of capital investment.*—DOE proposes to find that compliance with a Prohibition Order to Martin Drake 5, 6 and 7 will be economically feasible. DOE's analysis took into consideration the $3,406,000 additional capital investment costs required for CCS-DPU to comply with this NOI and any other NOI's which are currently under consideration, as well as additional capital investment costs resulting from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to CCS-DPU's powerplants.

DOE related these additional capital investment costs to CCS-DPU's estimate of its 1978 construction budget of $52.5 million, the total capitalization of the utility of $334 million, and the average remaining useful life of 31 years after conversion of Martin Drake 5, 6 and 7.

DOE does not consider the effect of this added capital investment cost of represent an unreasonable burden, given the financial capabilities of CCS-DPU to assume such costs.

b. *Total annual costs associated with conversion.*—The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal, as opposed to natural gas attributable of compliance with the NOI would be $592,000. This also represents the total estimated annual incremental increase in revenue requirements of CCS—DPU. (DOE also took into consideration revenue requirements of CCS-DPU resulting from compliance with all other outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to CCS-DPU powerplants.) This estimate of $592,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled *Computer Methodology For Coal Conversion Cost Determination.* August 1976 (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $592,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately $327,000 attributable to compliance with this NOI and all other NOI's currently under consideration, if any. Therefore, the net annual revenue requirements of CCS-DPU should increase by approximately $265,000.

DOE does not consider the effect of these added annual costs associated with conversion an unreasonable burden given the financial capabilities of the utility to assume such costs.

4. *Consumer impact.*

The potential initial impact of a Prohibition Order to Martin Drake 5, 6 and 7 is a net increase in revenues required from CCS-DPU consumers of approximately $.0002 per kilowatt hour of electricity sold by CCS-DPU. This estimate is based on DOE's analysis of the Ultrasystems Computer Model results.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which CCS-DPU selects to finance the increased cost associated with burning coal as a primary energy source at Martin Drake 5, 6 and 7, the extent to which the cost increase is spread among CCS-DPU customers, the regulations or policies of the regulatory agencies with jurisdiction over CCS-DPU regarding inclusion of such cost increase in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.*

Because the issuance of a Prohibition Order to Martin Drake 5, 6 and 7 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE proposes to conclude that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act, as amended, and other applicable environmental protection requirements, DOE proposes to conclude that issuance of a Prohibition Order to Martin Drake 5, 6 and 7 will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*

1. *National coal reserves.*

United States coal reserves are more than sufficient to supply national needs for the forseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable, (*Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974,* Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 100 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*

A comparison of estimated national coal production and national coal demand shows that there should be sufficient production of coal to meet the total national demand through 1984.

a. *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

[Production potential (million tons)]

Year:	
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7

The figures shown above are derived from FEA's Coal Mine Expansion Study (May

1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1984 projection, therefore, tends to underestimate actual production potential. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to Martin Drake 5, 6 and 7 prior to the issuance of a Notice of Effectiveness.

b. *National demand exclusive of ESECA Prohibition Order demand.*—The estimated national demand, excluding any increased demand resulting from DOE actions under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

[Demand (millions of tons)]	
Year:	
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985

c. *National ESECA Prohibition Order demand.*—DOE has estimated potential demand for coal resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders currently under consideration and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows:

[Demand (million tons)]	
Year:	
1978	9.6
1979	14.0
1980	20.4
1981	22.7
1982	29.5
1983	29.5
1984	29.5

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975 which are currently effective through December 31, 1978 and are subject to extension through December 31, 1984.)

3. *Characteristic coal, production and demand.*

a. *Characteristic coal requirements for these powerplants.*—Based on information provided by CCS-DPU, DOE proposes to conclude that wet-bottom boilers, of the type used at Martin Drake 5, 6 and 7, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb., 10,325 approximate
Moisture, 15.0% maximum
Ash, 20% maximum
Volatile, 15% minimum
Ash softening temperature, 2200 (° F) maximum
Sulfur, .56% maximum

b. *Characteristic coal demand from these powerplants.*—The potential average annual demand for coal, of the type described above, which would result from this Notice of Intention, is estimated to be as follows:

[Potential annual demand (thousand tons]	
Years:	
1979-84	74

c. *Characteristic coal available to these powerplants.*—Based on information provided by the utility, DOE proposes to find that CCS—DPU has entered into three long-term contracts with Pittsburg-Midway Coal Co., Colowyo Coal Co., and Empire Energy Coal Co. for supplies to Martin Drake 5, 6 and 7 of characteristic coal through 1984.

4. *State and local laws.*

DOE has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.*

On the basis of CCS-DPU's present coal contract commitments, DOE proposes to find that coal of the characteristics required will be available to Martin Drake 5, 6 and 7 through 1984. Furthermore, on the basis of the BOM Survey, the *Coal Mine Expansion Study*, and the *FEA 1976 National Energy Outlook*, DOE expects that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders, and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA. In addition, CCS-DPU indicates that it can purchase coal for Martin Drake 5, 6 and 7 in the "spot market."

B. *Coal transportation.*

1. *Location of powerplants and coal supply.*

Based on information provided by CCS-DPU, coal for Martin Drake 5, 6 and 7 will be supplied and transported from Colowyo Coal Co. and Empire Energy Corp., which are located in Moffat County, Colo., and from Pittsburgh—Midway, which is located in Routt County, Colo. to Martin Drake 5, 6 and 7 at Colorado Spring, Colo.

2. *Route of coal shipment.*

Based on information provided to DOE by CCS-DPU, the primary route for coal delivery for Martin Drake 5, 6 and 7 would originate on the Craig Branch of the Denver & Rio Grande Western Railroad (D&RGWRR) and later would switch into the Drake Plant so that all coal movements would be completed on the D&RGWRR.

3. *Originating trunk carrier.*

D&RGWRR, the expected carrier of coal for Martin Drake 5, 6 and 7, has indicated that it is able and willing to acquire any needed capacity involved in shipment to Martin Drake 5, 6 and 7.

Based on an FEA study, *Utility Analysis of Coal Transportation Availability*, November 1976, DOE has concluded that for all potential Prohibition Order candidates studied, there will be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA. D&RGWRR has indicated that the rail facilities of Moffat County and Routt County, Colo. are readily available to CCS-DPU and that the D&RGWRR has adequate handling and loading facilities to service the required coal volumes.

DOE has not found nor has it been informed of any apparent constraints to transporting coal.

4. *Powerplant facilities.*

Martin Drake 5, 6 and 7 presently have coal unloading facilities which CCS-DPU has advised DOE are adequate to handle the projected coal demand. There are no apparent obstacles to the handling and delivery of coal to Martin Drake 5, 6 and 7.

5. *Conclusion.*

On the basis of the information above, DOE proposes to find that coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Martin Drake 5, 6 and 7 presently exist.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants*

Based on an analysis of the information submitted to DOE by CCS-DPU, DOE proposes to find that the issuance of a Prohibition Order to Martin Drake 5, 6 and 7 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order.

CCS-DPU has indicated that Martin Drake 5, 6 and 7 was designed to burn natural gas and coal and is currently burning coal. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Martin Drake 5, 6 and 7 as a result of a Prohibition Order.

[FR Doc. 78-12989 Filed 5-11-78; 8:45 am]

[3128-01]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention to Issue Prohibition Orders to Certain Powerplants

The Department of Energy (DOE) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA), and chapter II, title 10, Code of Federal Regulations (10 CFR parts 303 and 305) to the following powerplants:

Docket No.	Owner	Generating station	Powerplant No.	Location
DCU-164	Southern Colorado Power Division, Central Telephone & Utilities Corp.	W. N. Clark	1	Canon City, Colo.
DCU-165	do	do	2	Do.

DOE hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3(b), require that DOE find that the powerplant had on June 22, 1974, or thereafter acquired or was designed with, the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. DOE's proposed findings regarding the above-named powerplants, as well as its proposed conclusions and rationale with respect to these findings, are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information made available to DOE. The findings, conclusions and rationale will be included, with any amendments, for any Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may determine to issue a Prohibition Order to the above-named powerplants. The Prohibition Order will not become effective, however, (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified the DOE, as required by Section 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413 (d)(5) and the Act of August 7, 1977, Pub. L. 95-95, § 112, or (b) if no such notification is given by EPA, the date that the Administrator of EPA certifies is the earliest date that the particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, supra; Pub. L. 95-95, supra; and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to a powerplant, DOE shall perform an analysis of the environmental impact of the issuance of such a Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been addressed in the Final Revised (Programmatic) Environmental Impact Statement (FES 77-3, dated May, 1977) or in other official documents made publicly available.

If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environment Policy Act of 1969 (42 U.S.C. 4332) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to any powerplant that has been issued an order. A powerplant to which a Prohibition Order is issued may be eligible for a delayed compliance order issued by EPA. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons.

Public comment on the proposal to issue a Prohibition Order to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should make reference to the relevant docket number(s).

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d), DOE hereby announces that a public hearing to receive oral presentation of data, views and arguments of persons interested in the proposed Prohibition Order will be held beginning at 9:00 a.m. on May 31, 1978 in the El Paso County Centennial Hall, Centennial Hall Auditorium, 200 South Cascade, Colorado Springs, Colo. 80903. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Luther S. Clemmer, Department of Energy, Region VIII, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, 303-234-2596. The request should be received before 4:30 p.m., May 22, 1978.

The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a telephone number where the person may be contacted.

Speakers will be contacted by a DOE representative before 4:30 p.m., May 25, 1978, and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Lutner S. Clemmer, Department of Energy, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, before 4:30 p.m., May 30, 1978.

Detailed technical data, views and arguments should be contained in a written submission in support of the

oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebutal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with pertinent written comments submitted to DOE in the course of the hearing, will be retained by DOE and made available for inspection and copying at the Freedom of Information reading room, located in Room 2107, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, and DOE Regional Office VIII, Room 206, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views and arguments with respect to this Notice of Intention to Issue a Prohibition Order to Public Hearing Management, Box TK, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the W.N. Clark Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., June 12, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations i mplementing section 2(a) and (b) of ESECA (10 CFR Parts 303 and 305) are available for inspection at the following DOE Regional Offices:

Region	Address	Phone
I	Director for Fuels Regulation, 150 Causeway St., Room 700, Boston, Mass. 02114.	617-223-5265
II	Director for Fuels Regulation, 26 Federal Plaza, Room 3200, New York, N.Y. 10007.	212-264-8051
III	Director for Fuels Regulation, 1421 Cherry St., Room 1001, Philadelphia, Pa. 19102.	215-597-3915
IV	Director for Fuels Regulation, 1655 Peachtree St., NE., 8th Floor, Atlanta, Ga. 30309.	404-881-2722
V	Director for Fuels Regulation, Federal Office Building 175 West Jackson Blvd, Room A-333, Chicago, Ill. 60604.	312-353-3053
VI	Director for Fuels Regulation, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235.	214-749-7705
VII	Director for Fuels Regulation, 324 East 11th St., Kansas City, Mo. 64106.	816-374-2936
VIII	Director for Fuels Regulation, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226.	303-234-2596
IX	Director for Fuels Regulation, 111 Pine St., San Francisco, Calif. 94111.	415-556-4640
X	Director for Fuels Regulation, 1992 Federal Building, 915 Second Ave., Seattle, Wash. 98174.	206-442-7320

Any questions regarding this notice should be directed to the DOE National Office as follows: Department of Energy, Code DCU (Prohibition Order: W.N. Clark Powerplant), Washington, D.C. 20461, 202-254-5436.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; The Department of Energy Organization Act (Pub. L. 95-91); E. O. 11790 (39 F.R. 23185), E. O. 12009 (42 F.R. 46267).)

Issued in Washington, D.C., May 8, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX—PROPOSED FINDING AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and DOE regulations require DOE to make certain findings before issuing a Prohibition Order to a powerplant. DOE's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

These findings, which are now proposed by DOE, are based on information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order. DOE intends, as necessary, to fully update, for purposes of currency, the information and data pertinent to the issuance of this NOI prior to the issuance of a Prohibition Order. DOE invites the utility or other interested persons to submit more current information or data, if such is available.

Docket No.	Owner	Generating station	Powerplant No.	Location
DCU-164	Southern Colorado Power Division, Central Telephone & Utilities Corp	I64W. N. Clark.	1	Canon City, Colo.
DCU-165	do	do	2	Do.

Southern Colorado Power division, Central Telephone & Utilities Corporation shall be referred to as the "utility" and as "SCPD-CTUC".

I. *Capability and necessary plant equipment to burn coal.*

DOE proposes to find that on June 22, 1974, Powerplants Number 1 and 2 at W. N. Clark Generating Station (W. N. Clark 1 and 2) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This pro-

posed finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Energy Regulatory Commission by SCPD-CTUC and a site visit performed by DOE representatives, it has been determined that each powerplant had in place, on June 22, 1974, boilers that were capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplants may not have been burning coal as their primary energy source.

The 1976 annual fuel consumption information reported by SCPD-CTUC was used to calculate the heat input of W. N. Clark boiler No. 1 and boiler No. 2. Boiler No. 1 was 48 percent coal and 52 percent natural gas and boiler No. 2 was 68 percent coal and 32 percent natural gas.

B. Based on information SCPD-CTUC provided to DOE during the above-mentioned site visit and other information available to DOE, it was determined that W. N. Clark 1 and 2 would have to upgrade an ash handling system, waste water treatment system and a solid waste disposal system in order to burn coal 100 percent of the time.

C. DOE proposes to find that on June 22, 1974, W. N. Clark 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, absence of the facilities listed in paragraph B, above, does not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

DOE proposes to find that the burning of coal at W. N. CLark 1 and 2 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA.

This finding is based upon the presumption that W. N. Clark 1 and 2 will be operated at a 82.0 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 20 years (as of the date of this NOI and after the estimated date of conversion), and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*

1. *Costs associated with burning coal.*

a. *Capital investment costs.*—The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at W. N. Clark 1 and 2 are estimated to be approximately $650,000. This estimate is based on information developed by PEDCo as a result of a site visit.

b. *Annual operating and maintenance costs.*—Based upon information supplied by SCPD-CTUC and by PEDCo, the expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal at W. N. Clark 1 and 2 is estimated to be approximately $37,000 per year.

c. *Fuel costs.*—(i) Based on information supplied by the utility, the price of natural gas available to W. N. Clark 1 and 2 is approximately $1.01 per Mcf. This represents $0.99 per million BTU's of natural gas, assuming 981,000 BTU's per Mcf.

(ii) Based on information supplied by the utility to the Federal Energy Regulatory Commission (FERC) and from other sources available to DOE, the price of coal available to W. N. Clark 1 and 2 is approximately $0.66 per million BTU's. This represents $13.48 per ton of delivered coal, assuming 20.3 million BTU's per ton.

(iii) DOE estimated that the burning of coal in lieu of natural gas by these powerplants will result in the reduction of approximately $0.33 per million BTU's or $548,000 per year in fuel costs.

(iv) Based on information supplied by SCPD-CTUC, DOE has determined that W. N. Clark 1 and 2 are presently burning coal and should continue to experience curtailment of their supply of alternate fuel, natural gas. DOE therefore, proposes to find that W. N. Clark 1 and 2 can continue to burn coal as their primary energy source with a decrease in fuel costs as a result of a Prohibition Order.

d. *Total annual costs associated with conversion.*—As a result of the conversion of W. N. Clark 1 and 2, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $168,000, assuming coal is used to replace natural gas burned.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of W. N. Clark 1 and 2 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $131,000 (this represents an amortized cost over the 20 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 20.2 percent of the total initial capital investment of $650,000 and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $37,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $548,000 (see paragraph A.1.c.). Considering the fuel cost savings, the total annual cost of operating W. N. Clark 1 and 2 after conversion is estimated to be reduced by $380,000. Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at W. N. Clark 1 and 2.

The burning of coal as the primary energy source at W. N. Clark 1 and 2 will result in an estimated annual equivalent savings of 1,625,000 Mcf of natural gas that otherwise would be used in providing steam for electric power generation.

DOE proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplants are offset by the current fuel cost differential between natural gas and coal burning at W. N. Clark 1 and 2, and because of the potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal will result in even greater savings.

3. *Financial capabilities of SCPD-CTUC.*

a. *Recovery of capital investment.*—DOE proposes to find that compliance with a Prohibition Order to W. N. Clark 1 and 2 will be economically feasible. DOE's analysis took into consideration $650,000 additional capital investment costs required for SCPD-CTUC to comply with this NOI and any other NOI's which are currently under consideration, as well as additional capital investment costs resulting from all Prohibition or Construction Orders, if any, issued to date under authority, of section 2 (a) and (c) of ESECA to SCPD-CTUC's powerplants.

DOE related these additional capital investment costs to Central Telephone & Utilities Corporation's estimate of its 1977 construction budget of $1 million, the 1977 total capitalization of Central Telephone & Utilities Corp. of $1.0 billion, and average remaining useful life of 20 years after conversion of W. N. Clark 1 and 2.

DOE does not consider the effect of this added capital investment cost to represent an unreasonable burden, given the financial capability of SCPD-CTUC to assume such costs.

b. *Total annual costs associated with conversion.*—The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal, as opposed to natural gas, attributable to compliance with this NOI would be $168,000. This also represents the total estimated annual incremental increase in revenue requirements of SCPD-CTUC. (DOE also took into consideration revenue requirements of SCPD-CTUC resulting from compliance with all other outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to SCPE-CTUC powerplants.) This estimate of $168,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled *Computer Methodology For Coal Conversion Cost Reasonableness Determination,* August 1976, (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $168,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately $548,000 attributable to compliance with this NOI and all other NOI's currently under consideration, if any. Therefore, the net annual revenue requirements of SCPD-CTUC should decrease by approximately $380,000.

4. *Consumer Impact.*

The potential initial impact of a Prohibition Order to W. N. Clark 1 and 2 is a net decrease in revenues required from SCPD-CTUC consumers of approximately $.0005 per kilowatt hour of electricity sold by SCPD-CTUC. This estimate is based on DOE's analysis of the Ultrasystems Computer Model results.

The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which SCPD-CTUC selects to finance the increased costs associated with burning coal as a primary energy source at W. N. Clark 1 and 2, the extent to which the cost decrease is spread among SCPD-CTUC customers, the regulations or policies of the regulatory agencies with jurisdiction over SCPD-CTUC regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.*

Because the issuance of a Prohibition Order to W. N. Clark 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of

coal, DOE proposes to conclude that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act, as amended, and other applicable environmental protection requirements, DOE proposes to conclude that issuance of a Prohibition Order to W. N. Clark 1 and 2 will be consistent with the purposes of ESECA to provide for a means to asssist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*

1. *National coal reserves.*

United States coal reserves are more than sufficient to supply national needs for the foreseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable, (*Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 100 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*

A comparison of estimated national coal production and national coal demand shows that there should be sufficient production of coal to meet the total national demand through 1984.

a. *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

[Production potential (million tons)]	
Year:	
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1984 projection, therefore, tends to underestimate actual production potential. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to W. N. Clark 1 and 2 prior to the issuance of a Notice of Effectiveness.

b. *National demand exclusive of ESECA Prohibition Order demand.*—The estimated national demand, excluding any increased demand resulting from DOE actions under the authority of section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

[Demand (millions of tons)]	
Year:	
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985

c. *National ESECA Prohibition Order demand.*—DOE has estimated potential demand for coal resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders currently under consideration and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows:

[Demand (million tons)]	
Year:	
1978	9.6
1979	14.0
1980	20.4
1981	22.7
1982	29.5
1983	29.5
1984	29.5

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975 which are currently effective through December 31, 1978 and are subject to extension through December 31, 1984).

3. *Characteristic coal, production and demand.*

a. *Characteristic coal requirements for these powerplants.*—Based on information provided by SCPD-CTUC, DOE proposes to conclude that dry-bottom boilers, of the type used at W. N. Clark 1 and 2, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb., 10,150 approximate.
Moisture, 15.0% maximum.
Ash, 20% maximum.
Volatile, 15.0% minimum.
Ash softening temperature, 2200 (°F) minimum.
Sulfur, 0.7 maximum.

b. *Characteristic coal demand from these powerplants.*—The potential average annual demand for coal, of the type described above, which would result from this NOI, is estimated to be as follows:

[Potential annual demand (thousand tons)]	
Years:	
1979–84	79

c. *Characteristic coal available to these powerplants.*—SCPD-CTUC presently purchases characteristic coal in the "spot market" from Bureau of Mines (BOM) District 17, in Fremont and Las Animas Counties. Based on information provided by the Denver Geological Survey, Fremont and Las Animas Counties have demonstrated reserves of 646 million short tons of coal. The Bureau of Mines Information Circular, 1975, entitled *The Reserve Base of U.S. Coals by Sulfur Content*, states that recoverable reserves by underground mining methods are generally estimated to be 50 percent of demonstrated reserves. Consequently, the estimated recoverable reserves, pertinent here are 323 million short tons of coal. SCPD-CTUC has advised DOE that there are sufficient quantities of characteristic coal to meet the above-stated incremental annual demand at Twin Pines, GEC and Delanga Mines through 1984. DOE, therefore, proposes to find that coal of the type that is burned at W. N. Clark 1 and 2 is available through 1984.

4. *State or local laws.*

DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion*

DOE proposes to find that coal of the characteristics required will be available to W. N. Clark 1 and 2 through 1984. Furthermore, on the basis of the BOM Survey, the *Coal Mine Expansion Study* and the *FEA 1976 National Energy Outlook*, DOE expects that the national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA.

B. *Coal transportation.*

1. *Location of powerplant and coal supply.*

The primary and alternate source of coal supply for W. N. Clark 1 and 2 at Canon City, Colorado, is from BOM District 17, Fremont and Las Animas Counties. SCPD-CTUC presently purchases coal in the "spot market" from coal mines in Fremont County, about 10 miles from the plant, and from another supplier in Las Animas County, approximately 110 miles distant.

2. *Route of coal shipment.*

The primary route for coal delivery to W. N. Clark 1 and 2 originates in BOM District 17. Within BOM District 17 coal is presently being delivered from Fremont County in the Florence coal field by truck, but the Denver and Rio Grande Western Railroad (D&RGW) is available to serve the plant.

3. *Originating trunk carrier.*

W. N. Clark has advised DOE that within BOM District 17 there are several probable originating-destination truck carriers for transporting coal to W. N. Clark 1 and 2. These trucking companies include the following: (A) Ben Moscheti Trucking Co., which presently transports coal to W. N. Clark 1 and 2 from Twin Pines Mine in Fremont County, 6 days each week, 24 ton load capacity per truck; (B) Corley Trucking Co., which also transportation coal to W. N. Clark 1 and 2 from GEC Mineral Mines in Fremont County, 6 days each week, 30 ton load capacity per truck; and (C) Cal Garis Trucking Co., which now transports coal to W. N. Clark 1 and 2 from the Delanga Mine in Las Animas County, 6 days each week 20–30 ton load capacity per truck. In addition, the Carestia Trucking Co. and the Berta Trucking Co. have indicated interest in transporting coal to the W. N. Clark powerplant if given the opportunity. Both would provide an added capacity availability of approximately 28 coal trucks. The above-mentioned trucking companies are able and willing to provide the required coal demand for W. N. Clark 1 and 2, which are expected to be adequate through December 31, 1984. DOE has not found nor has it been informed of any apparent constraints in transporting coal to W. N. Clark 1 and 2.

Whenever truck transportation of coal is not available, rail transportation, offered by D&RGW, is available to W. N. Clark 1 and 2 as an alternate mode.

4. *Powerplant facilities.*

W. N. Clark 1 and 2 presently have coal unloading facilities which are adequate to handle the projected coal demand. There are no apparent obstacles to the handling and delivery of coal to W. N. Clark 1 and 2.

5. *Conclusion.*

Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to W. N. Clark 1 and 2 presently exist.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.*

Based on an analysis of the information submitted to DOE by SCPD-CTUC, DOE proposes to find that the issuance of a Prohibition Order to W. N. Clark 1 and 2 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order. SCPD-CTUC has indicated that W. N. Clark 1 and 2 was designed to burn natural gas and coal and is currently burning coal. Therefore, there will not be an impairment on reliability of service within the meaning of ESECA in the area served by W. N. Clark 1 and 2 as a result of a Prohibition Order.

[FR Doc. 78-11367 Filed 5-11-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-4542, et al.]

ATLANTIC RICHFIELD CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

MAY 4, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 1, 1978 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [2]	Pressure base
G-4542, C, Jan. 12, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., casinghead gas in the SE/4 of the SW/4 of sec. 32-24S-37E, Lea County, N. Mex.	(1)	14.73
G-6083, et al., D, Apr. 24, 1978.	Mesa Petroluem Co., P.O. Box 2009, Amarillo, Tex. 79189.	El Paso Natural Gas Co., Aztex, Pictured Cliffs field, San Juan County, N. Mex.	Depleted, Lease will terminate by its own terms, plugged and abandoned..	
G-11576, D, Apr. 24, 1978	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79189.	Northern Natural Gas Co., (successor in interest to Pioneer Gathering System, Inc.), Sonora field, Sutton County, Tex.	Depletion of production in paying quantities; Applicant's leases and its interests therein have terminated..	
CI76-721, C, Apr. 24, 1978	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Antelope Ridge, et al. field, Eddy and Lea Counties, N. Mex.	(3)	14.65
CI77-242, C, Apr. 26, 1978	Exchange Oil & Gas Corp., 16th Floor, 1010 Common St., New Orleans, La. 70112.	Texas Gas Transmission Corp., a portion of the block 23 field, Ship Shoal area, Terrebonne Parish, La.	(3)	15.025
CI77-344 C, D, Apr. 26, 1978	Southland Royalty Co., 1000 Forth Worth Club Tower, Forth Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Shannon sandstone formation, from wells located in secs. 3 and 10, T44N, R75W, and secs. 21, 28, and 34, T45N, R75W, Campbell County Wyo.—(C); SW/4 sec. 28-T46N-R76W, Campbell County, Wyo.—(D).	(4)	15.025
CI77-567, C, Apr. 26, 1978	Union Oil Co., of California, Union Oil Center, Box 7600, Los Angeles, Calif. 90051.	Northern Natural Gas Co., blocks 34 and 60, Vermilion area, offshore Louisiana.	(5)	15.025
CI78-42, C, Apr. 27, 1978	Ladd Petroleum Corp., 1730 M St. NW., Washington, D.C. 20036.	Transcontinental Gas Pipe Line Corp., Mosquito Bay field, Terrebonne Parish, La.	(6)	15.025
CI78-52, C, Apr. 27, 1978	Ladd Petroleum Corp	Southwest Gas Corp., Blanco Pictured Cliffs field, San Juan County, N. Mex.	(7)	15.025
CI78-641, A, Apr. 17, 1978	Case-Pomeroy Oil Corp., P.O. Box 1511, Midland, Tex. 79701.	Northern Natural Gas Co., from a portion of High Island area block A-532, south addition, offshore Tex.	(1)	14.65
CI78-667, A, Apr. 24, 1978	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Hardy No. 1 well, Panola County, Tex.	(1)	14.65
CI78-678, A, Apr. 24, 1978	Felmont Oil Corp., P.O. Box 2266, Midland, Tex. 79701.	Columbia Gas Transmission Corp., South Marsh Island block 142 field unit, offshore Louisiana.	(1)	15.025
CI78-679, A, Apr. 25, 1978	Felmont Oil Corp	Columbia Gas Transmission Corp., block 34, East Cameron area, offshore Louisiana.	(1)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-680, B, Apr. 24, 1978.....	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla, 74004.	Universal Gasoline Co. (now Aminoil USA, Inc.), Alyesworth field, Marshall County, Okla.	(8).....	.....
CI78-681 (CI60-331), B, Apr. 24, 1978.	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Cities Service Co., (successor to the Nueces Co.), Agua Dulce (7,150 ft.) field, Nueces County, Tex..	Depleted, last producing gas well plugged and abandoned..	
CI78-682 (G-4141), B, Apr. 24, 1978.	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., South Crowley field, Arcadia Parish, La..	Nonproduction and contract expired by its own terms..	
CI78-683, A, Apr. 24, 1978.....	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Mary E. F. Barrett No. 1 well, Bear field, Beauregard Parish, La. and limited to the Wilcox A sand reservoir A.	(9).....	15.025
CI78-684, A, Apr. 24, 1978.....	William Herbert Hunt trust estate (successor in partial interest to Emory M. Spencer), 2500 1st National Bank Bldg., Dallas, Tex. 75202.	Natural Gas Pipeline Co. of America, Fulton Beach field, Aransas County, Tex.	(10).....	14.73
CI78-685, A, Apr. 25, 1978.....	Case-Pomeroy Oil Corp., P.O. Box 1511, Midland, Tex. 79701.	Columbia Gas Transmission Corp., block 34, east Cameron area, offshore Louisiana.	1(11).....	15.025
CI78-686, A, Apr. 26, 1978.....	Amerada Hess Corp., 1200 Milam, 6th Floor, Houston, Tex. 77002.	El Paso Natural Gas Co., Jicarilla Apache field, Rio Arriba County, N. Mex.	(1).....	14.65
CI78-687, A, Apr. 26, 1978.....	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Columbia Gas Transmission Corp., South Marsh Island area, block 267, offshore Louisiana.	(1).....	14.73
CI78-688, A, Apr. 26, 1978.....	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., High Island area blocks A-327 and A-332, offshore Texas.	(1).....	14.65
CI78-689, B, Apr. 24, 1978.....	Wood & Locker, Inc., 206 North Main, Midland, Tex. 79701.	Warren Petroleum Co., Williams Penn North field, Lea County, N. Mex.	Uneconomical, plugged and abandoned Mar. 21, 1978..	
CI78-691, A, Apr. 26, 1978.....	Ashland Exploration, Inc., P.O. Box 1503, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Boehs No. 1-33 well and the Rother No. 1-34 well, both located in Major County, Okla.	(1).....	14.65
CI78-692 (CI75-618), B, Apr. 24, 1978.	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Natural Gas Pipeline Co. of America, Hairston gas unit, C. C. Hairston well No. 1, Steve field, Bowie County, Tex.	Last production from the well was September 1976, leases expired by their own terms, plugged and abandoned Feb. 9, 1977..	
CI78-693, A, Apr. 24, 1978.....	Cities Service Co.....	Northern Natural Gas Co., west Cameron 222 wells Nos. 1-1, 1-2, 1-3, and 1-4, West Cameron block 222, offshore, Louisiana.	(1).....	15.025
CI78-694 (CI60-35), B, Apr. 24, 1978.	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., North Borcher field, Meade County, Kans.	All acreage dedicated to the Nov. 19, 1959 contract has been either assigned or surrendered..	
CI78-695 (CI68-1180), B, Apr. 24, 1978.	Edwin L. Cox, 3800 1st National Bank Bldg., Dallas, Tex. 75202.	Texas Gas Transmission Corp., North Maurice field, Lafayette Parish, La.	Depleted, lease terminated, plugged and abandoned..	
CI78-696, A, Apr. 24, 1978.....	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Northern Natural Gas Co., the A. B. Baker "B" well No. 16 in the Drinkard formation, Lea County, N. Mex.	(1).....	14.73
CI78-697, A, Apr. 24, 1978.....	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	El Paso Natural Gas Co., Ogden "8" Com. No. 1 well, (Morrow formation), east one-half of sec. 8, T24S, R28E, Malaga West Morrow field, Eddy County, N. Mex.	(1).....	14.73
CI78-698, A, Apr. 24, 1978.....	Cotton Petroleum Corp. (successor by merger to Wewoka Exploration Co., 4200 1 Williams Center, Tulsa, Okla. 74103.	United Gas Pipe Line Co., certain acreage in the South Dubina field, Colorado County, Tex.	(1).....	14.65

[1]Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.

[2]Applicant is requesting its certificate of public convenience and necessity be amended to authorize applicant to sell natural gas under and in accordance with the gas purchase agreement of May 25, 1976, as amended by amendment dated Feb. 24, 1978, during the remainder of the term of said certificate.

[3]Applicant is filing under Gas Purchase contract dated Oct. 1, 1976, amended by amendment dated Jan. 10, 1978.

[4]Applicant is filing under gas purchase and sales agreement dated Sept. 24, 1976, amended by amendment dated Mar. 27, 1978.

[5]Applicant is filing to change the point of delivery of gas to be sold by seller to Northern from Vermilion block 34 production from seller's "C" platform on Vermilion block 26 to seller's "B" platform on Vermilion block 35, under gas purchase contract dated June 2, 1977, amended by amendment dated Mar. 17, 1978.

[6]Applicant is filing under gas purchase contract dated Sept. 1, 1977, amended by amendment dated Feb. 17, 1978.

[7]Applicant is filing under gas purchase contract dated July 15, 1977, amended by amendment dated Jan. 16, 1978.

[8]The Aug. 31, 1948 casinghead gas contract has been terminated; the well on the Gipson lease was plugged and abandoned and the acreage released in August 1967; and the Sharp Bros. unit was sold in March 1970. Another lease, the Lake lease, was covered by the contract; however, it was sold in June 1950, prior to regulation.

[9]Applicant is filing under gas purchase contract dated Feb. 16, 1978.

[10]Applicant requests to continue the sale of natural gas to Natural Gas Pipeline Co. of America from the Fulton Beach field which was previously made by Emory M. Spencer. On Mar. 29, 1978, Mr. Emory M. Spencer assigned to William Herbert Hunt trust estate, Placid Oil Co. and George W. Graham all of his rights in and to the gas which was heretofore been sold to Natural Gas Pipeline Co. of America.

[11]Applicant is filing under gas purchase contract dated Mar. 17, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

[FR Doc. 78-12796 Filed 5-11-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP78-305]

COLUMBIA GAS TRANSMISSION CORP.

Application

MAY 3, 1978.

Take notice that on April 24, 1978, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP78-305 an application

pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Orange and Rockland Utilities, Inc. (Orange and Rockland), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that on February 29, 1978, National Fuel Gas Supply Corp. (National Supply) filed in Docket No. CP78-209 an application requesting authorization to render limited term underground gas storage service for Orange and Rockland, et al., for the period April 1, 1978 through March 31, 1979. The application further states that National Supply also proposed to continue for one year the limited term storage service as provided to non-affiliated customer utilites in each storage year commencing in 1975-1976. This continuation was requested in lieu of long-term storage service for which authorization was requested in Docket No. CP76-492, it is said.

It is stated that Orange and Rockland has requested Applicant to deliver up to 1,000,000 Mcf of gas annually to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), for storage injection; to receive from Tennessee up to 1,000,000 Mcf of gas withdrawn from storage, and to transport and redeliver like volumes to Orange and Rockland, in order to take advantage of the limited term storage service proposed by National Supply.

Applicant states that it would deliver a portion of Orange and Rockland's CDS rate schedule entitlement to Tennessee during summer injection periods at Tennessee's existing South Ceredo, Wayne County, W. Va., delivery point by nominating a portion of its CD rate schedule purchases for retention by Tennessee for Orange and Rockland's account. Applicant further states that it would receive during the withdrawal period up to 10,000 Mcf per day of natural gas from Tennessee at an existing delivery point to Applicant located in Pike County, Pa., and that it would transport the gas on an interruptible basis and redeliver it to Orange and Rockalnd at existing points of delivery in eastern New York.

Applicant indicates that it would charge Orange and Rockland for the proposed transportation 20.56 cents per Mcf of gas transported and would retain for company-use and unaccounted-for gas a percentage of the gas so delivered, which percentage is currently 4.0 percent. Applicant states that its transportation charge reflects its average systemwide unit storage and transmission costs exclusive of company-use and unaccounted-for gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12902 Filed 5-11-78; 8:45 am]

[6740-02]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

MAY 3, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on April 18, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. According to Consolidated, the proposed changes, reflected on Second Substitute Alternate Second Revised Sheet No. 16, to be effective May 1, 1978, represent PGA adjustments because of changes in the Base Tariff rates for producer purchases included in a revised filing in Docket No. RP78-52 and a decrease in costs of gas purchased from Texas Eastern, previously filed to become effective May 1, 1978.

Consolidated requests a waiver of any of the Commission's Rules and Regulations as may be deemed necessary by the Commission.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12903 Filed 5-11-78; 8:45 am]

[6740-02]

[Docket No. RM77-14]

EL PASO NATURAL GAS CO.

Tariff Filing

MAY 4, 1978.

Take notice that on May 1, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing and acceptance Substitute Fourth Revised Sheet No. 1-D.2 to its FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that on April 6, 1978, it tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A.[1] El Paso states that such tariff filing, proposed to become effective on June 1, 1978, provides for:

(i) The establishment in each volume of El Paso's tariff, its Gas Research Institute ("GRI") General Research, Development and Demonstration Funding Unit Provision ("R.D. & D. Funding Adjustment");[2]

(ii) Modification of the narrative statement contained on each of the Statement of Rates tariff sheets contained in El Paso's tariff to incorporate the proposed GRI R.D. & D. Funding Adjustment Provision; and

(iii) Inclusion in each of El Paso's Statement of Rates tariff sheets, where applicable, the approved GRI R.D. & D. Funding Unit Adjustment of 0.12 cents per Mcf.

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[1] Commission notice of such tariff filing was issued April 12, 1978, at Docket No. RM77-14.

[2] El Paso's tariff tender for its GRI R.D. & D. Funding Adjustment was submitted in conformity with the provisions of ordering paragraph (G) of the Commission's Opinion No. 11 issued March 22, 1978, at Docket No. RM77-14.

El Paso states that as part of such filing, it tendered Substitute Third Revised Sheet No. 1-D.2 to its Volume No. 2 tariff, which sheet comprises the Statement of Rates Sheet applicable to certain transportation services rendered by El Paso that are subject to the proposed GRI R.D. & D. Funding Unit Adjustment Provision. El Paso further states that the transportation rates reflected on such tendered tariff sheet are based upon El Paso's effective rates approved at Docket No. RP77-18,[3] adjusted by the proposed 0.12 cents per Mcf GRI Funding Unit. Such transportation services and applicable rates which are reflected on said Statement of Rates tariff sheet are subject to the final disposition of the transportation rate design issue then pending in the proceedings at Docket Nos. CP77-40 and RP77-97.

El Paso states that subsequent to its GRI filing, by letter order issued April 20, 1978, at Docket Nos. CP77-40 and RP77-97, the Commission approved El Paso's Stipulation and Agreement filed November 7, 1977, in settlement of the transportation rate design issue in said proceedings.[4] El Paso further states that the settlement transportation rates prescribed in that proceeding differ from the base transportation rates included in the pending GRI tariff tender. In order to eliminate such inconsistency, El Paso tendered the subject Substitute Fourth Revised Sheet No. 1-D.2 to its Volume No. 2 tariff, containing the Statement of Rates applicable to transportation services, which sheet contains the above described settlement transportation rates and El Paso's proposed revisions necessary to include therein the proposed GRI provisions. El Paso states that said Substitute Fourth Revised Sheet No. 1-D.2 was submitted in substitution for the counterpart Substitute Third Revised Sheet No. 1-D.2 now pending in El Paso's GRI tariff tender filed April 6, 1978.

El Paso has requested that the Commission, to the extent deemed necessary, grant waiver of its Rules and Regulations so as to permit tendered Substitute Fourth Revised Sheet No. 1-D.2 to be accepted for filing in substitution for Substitute Third Revised Sheet No. 1-D.2 presently pending effectiveness in El Paso's April 6, 1978, tariff filing at Docket No. RM77-14 and that such substituted sheet be made effective as of June 1, 1978, as requested.

El Paso states that copies of the filing have been transmitted to all affected customers served under El Paso's FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tender should, on or before May 23, 1978, file with the Federal Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12904 Filed 5-11-78; 8:45 am]

[3]See order issued August 31, 1977, approving Stipulation and Agreement filed at Docket No. RP77-18.

[4]Such order, inter alia, requires El Paso to file within ten (10) days after the date of the order, a revised Statement of Rates tariff sheet which reflects the settlement transportation rates set forth on the pro forma tariff sheet attached to the Stipulation and Agreement. In this regard El Paso concurrently filed Fourth Revised Sheet No. 1-D.2 to its Volume No. 2 tariff to become effective as of June 2, 1977, in compliance with said letter order issued April 20, 1978, at Docket Nos. CP77-40 and RP77-97.

[6740-02]

EQUITABLE GAS CO.

[Docket No. CP73-321]

Petition To Amend

MAY 3, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 13, 1978, Equitable Gas Co. (Petitioner), 420 Boulevard of the Allies, Pittsburgh, Pa. 15219, filed in Docket No. CP73-321 a petition to amend the order of October 30, 1973 (50 FPC 1336) issued by the Federal Power Commission in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction of 38.27 miles of 20-inch transmission lines and 17.05 miles of 16-inch transmission lines in Lewis, Harrison, Marion and Monongalia Counties, W. Va., in lieu of the 47.6 miles of 20-inch pipe previously authorized in the instant docket, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of October 30, 1973, Petitioner was authorized to construct 47.6 miles of 20-inch transmission lines in the aforementioned counties, West Virginia, and that by letter dated May 27, 1977, Petitioner advised the Commission that 38.27 miles of 20-inch and 17.05 miles of 16-inch, or a total of 55.32 miles of transmission line, had been actually constructed.

Petitioner states that the general reason for the difference in mileage of pipe and the total mileage actually installed and reported is that the estimate for pipe required was made in 1972 and determined from system base maps and office records. Petitioner further states that in the early planning stages, it was recognized that this would be a multi-year project and that it would not be practical to make a complete land survey and check out all possible rights of way problems three to four years in advance of construction. Decision was therefore made to survey and secure permits for only that section scheduled for actual construction within a particular year, it is stated.

It is indicated specifically, that reasons for the additional miles of pipeline required to complete the project are as follows:

A. The final field survey versus lengths scaled from base maps resulted in additional pipeline required to complete the project.

B. Field inspections also revealed that existing rights-of-way, especially on some

ridges, would not accommodate additional construction. This was due to either other existing lines in a limited area or where additional construction would create a potential land slippage problem. This occurred in several areas and right-of-way had to be relocated around the area which resulted in additional length of pipeline.

C. Rights-of-way in several areas had to be relocated because current landowners had completed or were planning surface development that precluded additional construction such as:

(1) New coal mining and coal stripping, some in progress at the proposed right-of-way or approaching, required additional footage to circumvent the area.

(2) Small mine communities were built up around the area of proposed construction and required relocation.

(3) Proximity of coal mine facilities such as tipples, storage areas, and tracks required relocation.

(4) A power company developed as ash haul disposal area that obstructed construction and access to existing right-of-way.

(5) The construction of interstate highway I-79 also required relocations.

All of the above accounted for the 7.72 miles of additional pipeline.

Petitioner indicates that the original Application recited that the total project would consist of 20-inch pipe, but after considering the economics of 16-inch pipe, a combination of the two pipe sizes was actually constructed. The original design anticipated increased volumes in this particular section of Petitioner's transmission system and when the anticipated increase volumes failed to materialize, the pipe size was scaled down accordingly, it is said. It is indicated that studies showed that sections of the pipeline could be reduced to 16-inch diameter and still maintain the required delivery capacity and also would result in a savings in labor and materials.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practices and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12905 Filed 5-11-78; 8:45 am]

[6740-02]

MOUNTAIN FUEL SUPPLY CO.

[Docket No. CP77 442]

Petition To Amend

MAY 3, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 20, 1978,[1] Mountain Fuel Supply Co. (Petitioner), 180 East First Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-442 a petition to amend the order of August 3, 1977 (57 FPC —) issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation and exchange of natural gas with Colorado Interstate Gas Co. (CIG) for the entire Shell Creek Area, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of August 3, 1977, Petitioner was authorized to transport and exchange gas from the acreage attributable to the Shell Creek Unit Well No. 2, and that Petitioner was also authorized to construct and operate a new delivery point on Petitioner's existing 20 inch line in Moffat County, Colo.

The petition states that according to CIG's amendment filed December 31, 1977, in Docket No. CP75-231, a development and well drilling program is continuing in the Shell Federal Unit Area, and it is anticipated that the gas from a recently completed well, currently undergoing testing, would be available soon. Petitioner indicates that pursuant to a contract amendment dated August 1, 1977, it and CIG have included the entire Shell Creek Area under the January 2, 1975 gas purchase agreement. Petitioner fully anticipated that significant quantities of additional natural gas would be produced from the expanded area, it is stated.

It is indicated that a delivery point on Petitioner's 20-inch line in Moffat County, Colo., has been established pursuant to authority granted in Docket No. CP77-442, and that it is anticipated that this mainline delivery point would be used to accommodate the gas from the expanded Shell Creek area.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12906 Filed 5-11-78; 8:45 am]

[1]The application was initially tendered for filing on April 20, 1978; however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 21, 1978 thus, filling was not completed until the latter date.

[6740-02]

[Docket No. CP78-299]

NATIONAL FUEL GAS SUPPLY CORP.

Application

MAY 3, 1978.

Take notice that on April 20, 1978, National Fuel Gas Supply Corp. (Applicant), Ten Lafayette Square, Buffalo, N.Y. 14240, filed in Docket No. CP78-299 an application pursuant to Section 7 of the Natural Gas Act for a

certificate of public convenience and necessity authorizing the construction and operation of certain enlarged facilities to replace existing facilities on its Line D in Vanango and Greene Townships, Erie County, Pa., and to construct and operate pipelines facilities designed to relocate, enlarge, and replace existing facilities, and for permission and approval to abandon the facilities proposed to be replaced and relocated, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to continue a replacement program for its Line D, Applicant's main transmission pipeline rendering service to Applicant's substantial market area in Jamestown, N.Y., and Erie, Pa., which was begun several years ago pursuant to authorization issued to Applicant's predecessor in interest, Pennsylvania Gas Co., in Docket Nos. CP67-280, CP72-239, and CP74-225. Applicant states that it would remove from its Line D approximately 26,900 feet of 8-inch O.D. line; 26,900 feet of 12-inch O.D. line; and 26,900 feet of 10-inch O.D. line extending from the Phillipsville Control Station, near Phillipsville, Pa., to the valves at Hammett, Pa. Applicant further states that it would replace these parallel sections with a single pipeline consisting of 29,268 feet of new 20-inch O.D. APL 5LX, Grades X-52, 0.375-inch wall pipeline; and 610 feet of 24-inch O.D. 0.250-inch wall, used, bare steel line pipe as a conduit on eight road crossings. To the extent necessary, Applicant proposes to abandon the facilities so replaced; in this regard, Applicant would remove such lines and sell them for scrap. Gas service would be maintained during construction, it is said. It is stated that the sections of Line D which Applicant would replace are very old, having been installed in 1886, 1929, and 1903, and that replacement is the most economical means of maintaining such facilities. The total cost of this project is estimated to be $1,315,000, it is stated.

It is indicated that while replacement of Line D facilities would realize some increased capacity, the existing market served from the Line D transmission system require the proposed replacement under current restricted gas supply conditions.

Applicant also requests authorization to relocate facilities on Applicant's Line H located in Pinegrove and Glade Townships, in the vicinity of Russell, Warren County, Pa. Applicant states that it would relocate a section of Line H, which presently runs through the center of the village of Russell, by constructing approximately 16,200 feet of new, 12¾-inch, coated steel pipeline to bypass the center of the village of Russell. Applicant indicates that the pipe will be Grade X-52, with a 0.250-inch wall thickness. It is indicated that the total estimated cost of such facilities would be $388,000. Gas service will be maintained during the period of the construction, it is said.

The application states that Applicant's proposed 12-inch bypass line would serve in place of the existing 10-inch line segment which is proposed to be abandoned, and that while some increased capacity would result from the use of the larger line size, the proposed use of the 12-inch pipe is part of a long range plan, begun many years ago, to replace Line H with 12-inch pipe. In this regard, of the total 18.9 miles of Line H between McWilliams Station and Stillwater, 8.6 miles of 10-inch line have already been replaced with new coated 12-inch pipe; the additional 2-mile Russel bypass now being proposed would leave only 7.1 miles of the smaller diameter pipe left, it is said. Applicant states that Line H continues to be needed as a high pressure transmission line and that the increased size to 12-inch pipe as proposed would provide a needed safety factor to supply the Jamestown and Erie areas which are substantial existing markets of Applicant. Applicant further states that the present facilities since 1974 have been operated at reduced pressure in view of the leak history experienced on that segment.

Applicant indicates that the facilities it proposes to construct would be financed with internally generated funds and/or interim short term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12907 Filed 5-11-78; 8:45 am]

[6740-02]

[Docket No. CP78-301]

TEXAS GAS TRANSMISSION CORP.

Application

MAY 3, 1978.

Take notice that on April 21, 1978, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-301 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain facilities located in Acadia Parish, La., and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests permission and approval to abandon 7.41 miles of 8-inch pipeline, 8.97 miles of 6-inch pipeline and 4 purchase meter stations, all located in Acadia Parish, La. Applicant states that the pipelines which it proposes to abandon were constructed in 1950 and 1951 by Louisiana Natural Gas Corp. (Louisiana Natural), a predecessor of Applicant, and that Applicant acquired the facilities of Louisiana Natural by merger approved by the order of May 13, 1955, in Docket No. G-6853. Applicant further states that in recent years, the pipelines have been operated at low pressures and have been used primarily to serve five delivery points which Applicant proposes to relocate. The pipelines have been replaced by a new 20-inch pipeline constructed under authorization granted in Docket No. CP77-362, it is stated. It is further stated that the four purchase meter stations which Applicant proposes to abandon are located on the above-mentioned pipelines, and have not been used for several years. Applicant indicates that it does not contemplate that any of the four stations will be used in the

future and are, therefore, not necessary in Applicant's operations.

Applicant proposes to relocate five delivery points presently located on the pipelines proposed to be abandoned to the new 20-inch pipeline. Applicant states that the cost of relocating the proposed facilities is estimated at $2,400, which cost would be financed by Applicant from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12908 Filed 5-11-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 871-1]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

On June 22, 1977, I announced by publication in the FEDERAL REGISTER, see 42 FR 31639, a waiver of Federal preemption to enforce the 1979 California heavy-duty motor vehicle and engine exhaust emission standards. This waiver was granted on the condition that California adopt an alternate set of standards and certification procedures for the 1979 model year identical to those in effect under the California heavy-duty regulations for the 1978 model year.

By letter dated January 12, 1978, the California Air Resources Board (CARB) informed me that it had adopted an optional set of heavy-duty vehicle standards and certification procedures for the 1979 model year identical to those in effect in California for the 1978 model year. Upon reviewing this action taken by the CARB, I have determined that the condition for the waiver has been met.

In its January 12 letter, the CARB also indicated that it had made minor technical and administrative changes to the 1979 and subsequent model year California heavy-duty vehicle regulations. The technical changes involved the adoption of amendments to these regulations to incorporate the changes made by the Environmental Protection Agency (EPA) to its proposed regulations applicable to 1979 and subsequent model year heavy-duty engines. See 42 FR 45132 (September 8, 1977). The administrative changes involved the separation of the 1979 model year standards and certification procedures from the 1980 and subsequent model year standards and certification procedures previously combined within the California regulations.

With respect to the 1979 California heavy-duty motor vehicle and engine regulations, I have determined that the administrative and technical changes mentioned above fall within the scope of a waiver currently in effect and do not require a new waiver. See 42 FR 31639 (June 22, 1977). Therefore, as the condition of the June 10, 1977 waiver decision has been met and the administrative and technical changes fall within the scope of a waiver currently in effect, no further action is required under section 209(b) of the Clean Air Act, as amended, with respect to the enforcement of the 1979 California heavy-duty motor vehicle and engine exhaust emission standards. The applicable section of Title 13 of the California Administrative Code is:

Section 1956.5, adopted October 5, 1976, as amended November 21, 1977, and "California Exhaust Emission Standards and Test Procedures for 1979 Model Year Heavy-Duty Engines and Vehicles," adopted November 21, 1977.

Furthermore, as to the 1980 and subsequent model year California heavy-duty vehicle and engine regulations, I have determined that the technical and administrative changes mentioned above fall within the scope of a waiver previously granted for these regulations and do not require a new waiver. The applicable section of Title 13 of the California Administrative Code is:

Section 1956.6, adopted November 21, 1977, and "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Year Heavy-Duty Engines and Vehicles," adopted October 5, 1976, as amended November 21, 1977.

Dated: May 5, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-12878 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 894-4]

COMMONWEALTH OF PENNSYLVANIA

Request for State Program Approval for Control of Discharges of Pollutants to Navigable Waters; Correction

In the April 27, 1978 issue of FEDERAL REGISTER, at page 18018, column one, add a period after the words "described program" on line 17; and immediately before the word "unless", add the words "The Administrator is required to approve each such submitted program".

Dated: May 1, 1978.

A. R. MORRIS,
Acting Regional Administrator, Region III.

[FR Doc. 78-12877 Filed 5-11-78; 8:45 am]

[6560-01]

[PP 6G1826/T150]

GLYPHOSATE

Extension of Temporary Tolerances

On May 13, 1977, the Environmental Protection Agency (EPA) announced (42 FR 24306) the establishment of temporary tolerances for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 part per million (ppm). These tolerances were established in response to a pesticide pe-

tition (pp 6G1826) submitted by Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. These temporary tolerances will expire May 6, 1978.

Monsanto Co. has requested a one-year extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.). (A related document establishing food and feed additive regulations for residues of glyphosate in sugarcane molasses appears elsewhere in today's FEDERAL REGISTER.)

The scientific data reported and all other relevant material have been evaluated, and it has been determined that an extension of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire May 3, 1979. Residues not in excess of 0.1 ppm remaining in or on sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Branch, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).)

Dated: May 2, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-12957 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 895-6]

FUELS AND FUEL ADDITIVES

Applications for Suspension of January 1, 1978, Lead Phase-down Standard

Notice is hereby given by the Environmental Protection Agency (EPA) that requests for suspension of the gpg lead standard pursuant to 40 CFR 80.20(a)(4) will not be accepted after (30 days after publication) with respect to any refinery for which enforcement of the lead standards set out in 40 CFR 80.20(a)(1) has not been suspended. Enforcement of the lead standards set out in 40 CFR 80.20(a)(1) was suspended for all refineries of 30,000 barrels per day or less crude oil or bona fide feedstock capacity by notice of April 1, 1977, at 42 FR 17515, and for refineries with greater than 30,000 barrels per day, but not greater than 50,000 barrels per day, crude oil or bona fide feedstock capacity owned or controlled by refiners with crude oil or bona fide feedstock capacity of 137,500 barrels per day or less by notice of January 31, 1978, at 43 FR 4110.

Dated: April 24, 1978.

MARVIN B. DURNING,
Assistant Administrator
for Enforcement.

[FR Doc. 78-13013 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 895-5; OPP-30126A]

PESTICIDE PROGRAMS

Approval of Application To Register Pesticide Product Containing a New Active Ingredient

On January 31, 1977, notice was given (42 FR 5750) that the U.S. Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, had filed an application (EPA File Symbol No. 27586-E) with the Environmental Protection Agency (EPA) to register the pesticide product GYPCHEK Biological Insecticide for the Gypsy Moth containing 20 percent of the active ingredient polyhedral inclusion bodies of gypsy moth nucleopolyhedrosis virus which was not previously registered at the time of submission. As stated in the January 31 notice, the U.S. Forest Service proposed that the product be classified for general use.

This application was approved on April 13, 1978, and the product has been assigned the EPA Registration No. 27586-2. GYPCHEK Biological Insecticide for the Gypsy Moth is classified for general use in the control of gypsy moth.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), will be available for public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of April 13, 1978. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M Street SW., Washington, D.C. 20460. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: May 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 78-13009 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 895-8]

ENVIRONMENTAL IMPACT STATEMENTS

Change in Availability Publication Date

Pursuant to the President's Reorganization Plan No. 1 and subsequent Memorandum of Agreement entered into between the Council on Environmental Quality and the Environmental Protection Agency (EPA), EPA is the official recipient for environmental impact statements (EIS's) and is required to publish on a weekly basis the availability of each EIS received. This Notice has normally been published on Friday.

However, this week the notice due on Friday, May 12, will instead be published on Monday, May 15, 1978. It will describe the EIS's received during the week of May 1-5, 1978. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date for submission of comments is June 26, 1978.

We apologize for any inconvenience this delay may cause.

Dated: May 9, 1978.

JOSEPH M. MCCABE,
Acting Director,
Office of Federal Activities.

[FR Doc. 78-13015 Filed 5-11-78; 8:45 am]

[6712-01]

[Report No. 909]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 8, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Applications accepted for filing:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21320-CD-AL-(2)-78 Telpage of Iowa, Inc. Consent to Assignment of License from Telpage of Iowa, Inc., Assignor to Terry Rhoades, d.b.a. as Iowa Communications, Assignee. Stations: KWT959, Ida Grove; KWT962, Fort Dodge, Iowa.

21322-CD-P-78 Beep Communication Systems, Inc. (KUS282) C.P. for additional facilities to operate on 454.025 MHz at a new site described as Loc. No. 2: Near intersection of Route No. 66 and South End Road, Approximately 1 mile east of Millidale, Conn.

21323-CD-P-78 Airsignal International of Philadelphia, Pennsylvania, Inc. (KGC223) C.P. for additional facilities to operate on 72.86 MHz (control) at Loc. No. 7: Lewis Tower Building, 225 South 15th Street, Philadelphia, Pa.

21324-CD-MP-(3)-78 RadioCall, Inc. (KUA215) Mod permit to replace transmitter, change antenna system and relocate facilities operating on 152.06 152.12 152.15 MHz from Loc. No. 6 to new location described as Loc. No. 7: Huling Tunnel, Diamond Head, Honolulu, Hawaii.

21325-CD-P-78 J. M. Blodgett d.b.a. Radio Page Communications (KWT885) C.P. for additional facilities to operate on 35.58 MHz at a new site described as Loc. No. 6: Highway No. 9, Forked River, N.J.

21326-CD-P-78 L & L Services, Inc. d.b.a. Metro Communication Service (KUC906) C.P. to change power operating on 152.21 MHz located at Parkway Hospital Grounds, Decatur, Ala.

21327-CD-P-(2)-78 Blue Earth Telephone Co. (KBM521) C.P. to change antenna system operating on 152.75 MHz and additional facilities to operate on 152.78 MHz to be located Route 169, 3.78 miles northwest of Blue Earth, Minn.

21328-CD-P-78 Fresno Mobile Radio, Inc. (KME200) C.P. for additional facilities to operate on 2116.0 MHz (repeater) at Loc. No. 1: Panoche Mountain, 10 miles northnortheast of Panoche; 2166.0 MHz (control) at Loc. No. 3: 160 North Broadway, Fresno, Calif.

21329-CD-P-78 Radio Telephone Inc. (new) C.P. for a new 2-way station to operate on 454.300 MHz: 4.6 miles southwest of Kewaunee, Wis.

21330-CD-P-(2)-78 Com-Nav, Inc. d.b.a. Radio Telephone of Maine (KRS712) C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 2: Bald Mountain, 3½ miles southeast of Dedham and 454.025 MHz at Loc. No. 3 (Control): 12 Acme Road, Brewer, Maine.

21331-CD-P-78 Lakeland Radiophone, Inc. (new) C.P. for a new 2-way station to operate on 152.12 MHz; Highway 47 and Mid Lake Road, 2.5 miles southeast of Minocqua, Wis.

21332-CD-P-78 Airsignal International, Inc. (KKG561) C.P. to relocate facilities operating on 35.22 MHz at Loc. No. 4 to be located 13627 Stafford Road, Stafford, Tex.

21333-CD-P-(2)-78 The Offshore Telephone Co. (KKB396) C.P. to relocate facilities operating on 35.30 35.62 MHz to be located on Roof of Brigantine Motor Inn, Brigantine, N.J.

21334-CD-P-78 Scuylkill Mobile Fone, Inc. (KGA589) C.P. for additional facilities to operate on 454.050 MHz at Loc No. 2: Broad Mountain, St. Clair, Pa.

21335-CD-P-78 Southern Bell Telephone & Telegraph Co. (KIG298) C.P. to change antenna system, replace transmitter and relocate facilities operating on 152.21 MHz to be located 100 South Eugene Street, Greensboro, N.C.

21336-CD-P-(8)-78 The Pacific Telephone & Telegraph Co. (KMA400) C.P. to change antenna system operating on 35.38 35.46 MHz at Loc. No. 1, relocate facilities operating on 454.400 454.450 454.500 454.550 MHz from Loc. No. 2 to Loc. No. 1 and 35.38 35.46 MHz (standby) from Loc. No. 3 to Loc. No. 1: 2.6 miles north northeast of Burbank, Calif.

21337-CD-P-(3)-78 Mobilefone Northwest (KLF563) C.P. for additional facilities to operate on 454.225 459.225 MHz to be located at Loc. No. 6; relocate facilities operating on 454.050 MHz (control) from Loc. No. 2 to Loc. No. 6: 3707 North Monroe, Spokane, Wash.

21338-CD-AL—78 AAA Answering Service, Inc. Consent to Assignment of License from AAA Answering Service, Inc., Assignor to Mid-South Telecommunications, Inc., Assignee. Station: KLB703, Meridian, Miss.

21339-CD-TC-(3)-78 Certified Communications, Inc., Consent to Transfer of Control from Communications Properties, Inc. Transferor to Paul D. Jones and Otis L. Hale, Transferee. Stations: KAD925, University City, KAF240, Clayton and KRS635, St. Louis, Mo.

21340-CD-P-78 James R. Marckres d.b.a. West Central Pagers (new) C.P. for a new 1-way station to operate on 43.58 MHz: 8th and Warford Streets, Perry, Iowa.

21341-CD-P-78 S.F. McNeill, d.b.a. Communications Specialists Co. (new) C.P. for a new 1-way station to operate on 158.70 MHz: on Highway 133, 5 miles north of Southport, N.C.

21321-CD-P-78 S.F. McNeill, d.b.a. Communication Specialists Co., C.P. for a new 1-way station to operate on 152.24 MHz: 300 feet west of Highway 17 North and Cox Avenue, Jacksonville, N.C.

21342-CD-TC-(2)-78 Terre Haute Communications, Inc., Consent to Transfer of Control from Communications Properties, Inc. Transferor to Certified Communications, Inc. Transferee. Stations: KUS291 KSB655, Terre Haute, Ind.

21343-CD-AL-78 AAA Answering Service, Inc., Consent to Assignment of License from AAA Answering Service, Inc., Assignor to Mid-South Telecommunications, Inc., Assignee. Station: KUS302, Meridian, Miss.

21344-CD-MP-78 Schaller Telephone Co. (KWU471) Mod permit to change antenna system replace transmitter operating on 152.51 MHz: Intersection U.S. 20 and S.R. 110, 1.6 miles southeast of Schaller, Iowa.

Renewal of License (Developmental) expiring 6-1-78, TERM June 1, 1978 to June 1, 1979

Temporary fixed, KAR68

CORRECTION

21080-CD-P-78 Collins Radio Communications Corp., Gillette, Wyo. (KUO574). Correction to add Control location operating on 454.025 MHz at 3 miles east and 0.25 mile north of Intersections. Wyoming 59 and Highway 16, Gillette, Wyo. All other particulars are to remain the same as reported on PN No. 907 dated 4-24-78.

RURAL RADIO SERVICE

60336-CR-P-78 Wyoming Telephone Co., Inc. (new) C.P. for a new Rural Sub-

scriber station to operate on 157.80 MHz: Approximately 12.25 miles east of Pinedale, Wyo.

60337-CR-P-78 Wyoming Telephone Co., Inc. (new) C.P. for a new Rural Subscriber station to operate on 157.80 157.92 MHz: Approximately 10.75 miles south of Big Piney, Wyo.

60338-CR-P/L-78 The Mountain States Telephone & Telegraph Co. (new) C.P. for a new Rural Subscriber station to operate on 157.86 MHz: 17.2 miles west of Hiland, Wyo.

POINT TO POINT MICROWAVE RADIO SERVICE

VA—2101-CF-P-78 Chesapeake & Potomac Telephone Co. of Virginia (WGI22), 901 Prince Edward Street, Fredericksburg (Spotsylvania), Va. Lat. 38°18'06" N., Long. 77°27'44" W. C.P. to add frequencies 10855H MHz toward Corbin, Va., 10735V MHz toward Berea, Va., change frequencies 10735H and 10895H MHz to 11015H, 11095H MHz toward Berea, VA.

VA—2102-CF-P-78 Same (KJJ31), 0.3 miles SW of Berea (Stafford), Va. Lat. 38°21'33" N., Long. 77°31'27" W. C.P. to add frequencies 11425V MHz toward Fredericksburg, Va. and 11365V MHz toward Morrisville, Va.; move and replace antennas on frequencies 5937.8V, 11225V MHz toward Bowling Green, Va. and 11285H, 5952.6H MHz toward Morrisville, Va.

VA—2103-CF-P-78 Same (KJJ30), 3.4 miles SW of Morrisville (Fauquier), Va. Lat. 38°28'47" N., Long. 77°44'59" W. C.P. to add frequencies 10915V MHz toward Berea, Va., 6219.5V MHz toward Culpeper, Va., replace antennas on frequencies 6234.3H, 10835H MHz toward Berea, Va. and 6308.4H, 10755V MHz toward Culpeper, Va.

VA—2104-CF-P-78 Same (KYS83), East Piedmont Street and Brandy Road, Culpeper (Culpeper), Va. Lat. 38°28'33" N., Long. 77°59'28" W. C.P. to add frequency 5967.4V MHz and replace antennas on frequencies 6056.4H and 11685V MHz toward Morrisville, Va.

FL—2109-CF-P-78 General Telephone Co. of Florida, 830 Arlington Avenue, St. Petersburg (Pinellas), Fla. Lat. 27°46'19" N., Long. 82°38'44" W. C.P. to add frequency 6256.54H MHz on azimuth 101.5° toward Wimauma, Fla.

FL—2110-CF-P-78 Same (WIU84), 2.4 miles WNW from Wimauma (Hillsborough), Fla. Lat. 27°42'57" N., Long. 82°20'13" W. C.P. add frequencies 6004.50H MHz on azimuth 281.6° toward St. Petersburg, and 3890H MHz on azimuth 335.6° toward Tampa, Fla.

FL—2111-CF-P-78 Same (KIL88), 519 Zack Street, Tampa (Hillsborough), Fla. Lat. 27°57'01" N., Long. 82°27'24" W. C.P. to add frequency 3930H MHz on azimuth 155.5° toward Wimauma, Fla.

SD—2119-CF-P-78 Northwestern Bell Telephone Co. (KAW77), 4.5 miles south of Philip (Jackson), S. Dak. Lat. 43°58'52" N., Long. 101°38'32" W. C.P. to replace antennas on frequencies 4050V, 4130V MHz toward Capa, and 3750V, 3830V MHz toward Wall, S. Dak.

SD—2120-CF-P-78 Northwestern Bell Telephone Co. (KBD64), 2.0 miles NE of Chamberlain (Brule), S. Dak., Lat. 43°49'50" N., Long. 99°18'09" W. C.P. to correct coordinates and increase power on frequencies 6219.5V and 6338.1V MHz, correct azimuths to read 190.5° toward Dixon, 342.1° toward Fort Thompson, and 115.5° toward White Lake, S. Dak.

SD—2121-CF-P-78 Same (KBL70), 3.0 miles east of Dixon (Gregory), S. Dak. Lat. 43°23'12" N., Long. 99°24'56" W. C.P. to correct coordinates, increase power and replace antennas on frequencies 5937.8V, 6056.4V MHz, correct azimuth to read 10.5° toward Chamberlain, S. Dak. and 5982.3V, 6100.9V MHz and correct azimuth to read 265.9° toward Winner, S. Dak.

SD—2122-CF-P-78 Same (KBL82), 0.66 miles south of Winner (Tripp), S. Dak. Lat. 43°21'48" N., Long. 99°50'54" W. C.P. to increase power on frequencies 6204.7V and 6323.3V MHz, correct azimuth to read 85.8° toward Dixon, S. Dak.

WA—2133-CF-P-78 Pacific Northwest Telephone Co. (KOC66), 3.3 miles ENE of Kalama (Cowlitz), Wash. Lat. 46°00'58" N., Long. 122°46'26" W. C.P. move and replace antennas on frequency 3730H MHz toward Portland, Wash.

CO—2073-CF-P-78 Mountain States Telephone Co. (KAN27), 931 14th Street, Denver (Denver), Colo. Lat. 39°44'43" N., Long. 104°59'45" W. C.P. to replace transmitters on frequencies 10715V and 10955H MHz toward Martin M passive reflector and from passive reflector to Martin Mar, Colo.

CO—2074-CF-P-78 Same (KAJ64), Martin Mar 0.7 miles NW of Kassler (Jefferson), Colo. Lat. 39°29'42" N., Long. 105°06'23" W. C.P. to replace transmitters on frequencies 11405V and 11645H MHz toward Martin M passive reflector and from passive reflector to Denver, Colo.

OR—1915-CF-P-78 Pacific Northwest Bell Telephone Co. (KGP87), Auburn, 13 miles south of Baker, Oreg. Mod of License to correct coordinates from Lat. 44°35'12" N., Long. 117°47'27" W. to read Lat. 44°35'13" N., Long. 117°47'16" W.

AZ—2081-CF-MP-78 Navajo Communications Co. Inc. (WPY28), Dilkon (Navajo), Ariz. Lat. 35°22'15" N., Long. 110°19'37" W. Mod of C.P. (3493-CF-P-77) to change polarization from V to H on frequency 2164 MHz on azimuth 273.1° toward Newbry Mesa, Ariz.

AZ—2082-CF-MP-78 Same (WCT953), Leupp School, Leupp (Coconino), Ariz. Lat. 35°17'49" N., Long. 111°00'26" W. Mod of C.P. (3495-CF-P-77) to change polarization from V to H on frequency 2172 MHz on azimuth 46.4° toward Newbry Mesa, Ariz.

KS—2090-CF-P-78 Southwestern Bell Telephone Co. (KAY79), 0.42 miles SE of RR Station Satanta (Haskell), Kans. Lat. 37°26'18" N., Long. 100°58'46" W. C.P. to add a new point of communication on frequencies 11095V and 10855V MHz on azimuth 298.1° toward Ryus, Kans.

VA—2095-CF-P-78 Chesapeake & Potomac Telephone Co. of Virginia (KIR29), 703 East Grace Street, Richmond, Va. Lat. 37°32'26" N., Long. 77°26'13" W. C.P. to add frequency 10895H MHz toward Glen Allen, Va.

VA—2096-CF-P-78 Same (WBB200), 2.1 miles west of Glen Allen (Henrico), Va. Lat. 37°40'06" N., Long. 77°32'37" W. C.P. to add frequency 11585 MHz toward Richmond and Ashland, Va.

VA—2097-CF-P-78 Same (WBA999), 1.65 miles NNE of Ashland (Hanover), Va. Lat. 37°46'46" N., Long. 77°27'55" W. C.P. to add frequencies 10895 MHz toward Glen Allen, Va. and 11035H MHz toward Ruther Glen, Va.

VA—2098-CF-P-78 Same (WCG259), 2.65 miles east of Ruther Glen (Caroline), Va. Lat. 37°55'52" N., Long. 77°24'27" W. C.P. to add frequency 11485H MHz toward Ashland and Bowling Green, Va., move receive antennas on frequency 11325 MHz toward Bowling Green, Va.

VA—2099-CF-P-78 Same (KJJ32), 2.2 miles N of Bowling Green (Caroline), Va. Lat. 38°04'36" N., Long. 77°22'02" W. C.P. to add frequency 11035H MHz toward Ruther Glen and Corbin, Va., move and replace antennas on frequencies 6219.5V, 10815V MHz toward Berea and 6204.7V, 10775H MHz toward Cauthornvle, Va.

VA—2100-CF-P-78 Same (WCG260), 2.4 miles SW of Corbin (Caroline), Va. Lat. 38°12'44" N., Long. 77°21'28" W. C.P. to add frequency 11485H MHz, move receive antennas on frequency 11325V MHz toward Bowling Green, Va. and add frequency 11465H MHz toward Fredericksburg, Va.

CA—2077-CF-R-78 The Pacific Telephone & Telegraph Co. (KMQ44). Temporary fixed locations. Renewal of Developmental License expiring May 29, 1978. Term: May 29, 1978 to May 29, 1979.

CA—2080-CF-P-78 American Television and Communications Corp. (KNK60) Cuesta Ridge, 5.5 miles north of San Luis Obispo, Calif. (Lat. 35°21'37" N., Long. 120°39'18" W.) C.P. to add 6271.4H and 6301.0V MHz toward Paso Robles, Calif. on azimuth 352.5°. (Note: Carrier requests a waiver of section 21.701(i).)

MO-KS—2087-CF-P-78 United Video, Inc. (WAY25) Highway 66 and Shifferdecker, Joplin, Mo. (Lat. 37°04'49" N., Long. 94°33'25" W.) C.P. to change frequency 10735H MHz to 11135H MHz toward Pittsburg, Kans. via power split on azimuth 335.2°.

IN-KY—2142-CF-P-78 Microband Corp. of America (new) 1030 Spring Street, Jeffersonville, Ind. (Lat. 38°16'50" N., Long. 85°44'45" W.) C.P. for a new station to operate on 11385.0H MHz toward First National Bank, Louisville, Ky. on azimuth 199.8°.

CA—2161-CF-P-78 American Television and Communications Corp. (KTR46) Frazier Mountain, 7 miles west of Gorman, Calif. (Lat. 34°46'30" N., Long. 118°58'05" W.) C.P. to add 6182.4V MHz toward Broadcast Peak, Calif. on azimuth 253.3°. (Note: Carrier requests a waiver of Section 21.701(i).)

CA—2162-CF-P-78 Same as above (KVU78 Broadcast Peak, 16 miles NW. of Santa Barbara, Calif. (Lat. 34°31'31" N., Long. 119°57'29" W.) C.P. to add 11265.0H MHz toward San Antonio, Calif. on azimuth 305.5°.

CA—2163-CF-P-78 Same (WDD52) San Antonio, 1.7 miles east of Casmalia, Calif. (Lat. 34°50'30" N., Long. 120°29'53" W.) C.P. add 10815.0H MHz toward Cuesta Ridge, Calif. on azimuth 346.1°.

CA—2164-CF-P-78 Same (KNK60) Cuesta Ridge, 5.5 miles north of San Luis Obispo, Calif. (Lat. 35°32'37" N., Long. 120°39'18" W.) C.P. to add 11545.0H MHz toward Williams Hill, Calif. on azimuth 334.6°.

CA—2165-CF-P-78 Same (KNL77) Williams Hill, 7 miles SW. of San Ardo, Calif. (Lat. 35°57'04" N., Long. 121°00'03" W.) C.P. add 6286.2V MHz toward Fremont Peak, Calif. on azimuth 33.4°. (Note: Carrier requests a waiver of Section 21.701(i).)

CA—2166-CF-P-78 Same (KNL31) Fremont Peak, 6.5 miles south of San Juan Bautista, Calif. (Lat. 36°45'20" N., Long. 121°30'06" W.) C.P. add 10775.0V MHz toward Mt. Chual, Calif. on azimuth 323.9°.

CA—2167-CF-P-78 Same (KNL46) Mt. Chual, 8 miles SW. of Coyote, Calif. (Lat. 37°07'08" N., Long. 120°49'57" W.) C.P. add 11685.0V MHz toward San Bruno, Calif. on azimuth 319.6°.

MO—2048-CF-P-78 MCI Telecommunications Corp. (WOF86) a mile north of Creve Coeur, Mo. (Lat. 38°42'43" N., Long. 90°25'14" W.) Construction Permit to change transmit station location from Broadway to Creve Coeur, Mo., and to add: 6197.2H, 6226.9V, 6256.5H and 6286.2V MHz towards High Ridge, Mo. on azimuth 194.1°; 6197.2H MHz towards St. Louis, Mo. on azimuth 115.0°; and 6197.2V, 6226.9H, 6256.5V and 6286.2H MHz towards Brighton, Ill. on azimuth 40.1°.

MO—2049-CF-P-78 Same (WOF87) 2.0 miles SE. of High Ridge, Mo. (Lat. 38°26'16" N., Long. 90°30'30" W.) Construction Permit to change location of receive station from Broadway to Creve Coeur; and to add 5945.2V, 5974.8H, 6004.5V and 6034.2H MHz towards Creve Coeur on azimuth 194.1°.

MO—2051-CF-P-78 Microwave Communications, Inc. (WAX74) 720 Olive Street, St. Louis, Mo. Construction Permit to change location of receive station from Brighton to Creve Coeur and add 5945.2H MHz towards Creve Coeur, Mo. on azimuth 295.1°.

IL—2052-CF-P-78 Same (WAX73) 35 miles east of Brighton, Brighton, Ill. Construction Permit to change location of receive station from St. Louis to Creve Coeur and add 5945.2V, 5074.8H, 6004.5V and 6034.2H MHz towards Creve Coeur on azimuth 220.3°.

CORRECTION

Correct the following applications which appeared on Public Notice No. 903 dated March 27, 1978. All other particulars remain the same.

PA—1578-CF-P-78 Bell Telephone Co. of Pennsylvania. (new) Allentown, Pa. Correct azimuth 322.48° toward Allentown and 180.07° toward Finland.

PA—1579-CF-P-78 Same (new) Finland, Pa. Correct azimuth 0.07° toward Lanark and 186.99° toward Schwenksville.

PA—1580-CF-P-78 Same (new) Schwenksville, Pa. Correct azimuth 6.97° toward Finland and 164.85° toward Eagleville.

PA—1581-CF-P-78 Same (new) Eagleville, Pa. Correct azimuth 344.88° toward Schwenksville and 169.85° toward Wayne.

WI—2002-CF-P-78 Wisconsin Telephone Co. (WBB354) 5 Miles SW. of Waukesha Cth X Waukesha, (Waukesha) Wis. Correct frequencies to read 10975V and 10815V MHz. All other particulars remain the same as reported on Public Notice No. 907, dated April 24, 1978.

WI—2018-CF-P-78 Same (WBB355) 1 Mile South of North Prairie, (Waukesha) Wis. Correct entry to read; also increase power on frequencies 11425V and 11585V MHz toward Waukesha, Wis. All other particulars remain the same as reported on Public Notice No. 907, dated April 24, 1978.

UT—1762-CF-P-78 Western Tele-Communications, Inc. (WBA854) Correct Call Sign to read WBA854 not WBA844. All other particulars remain the same as previously reported on Public Notice, dated May 1, 1978, Report No. 908.

[FR Doc. 78-12897 Filed 5-11-78; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1117]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

MAY 8, 1978.

Docket or RM No.	Rule No.	Subject	Date received
21116	Pt. 2	Amendment of pt. 2 of the Commission's rules to prohibit the marketing of external radio frequency power amplifiers capable of operation on any frequency from 24 to 35 MHz.	
21117	Pts. 2 and 97	Amendment of pts. 2 and 97 of the Commission's rules to require type acceptance of equipment marketed for use in the amateur radio service.	
		Filed by Robert M. Booth, Jr., attorney for The American Radio Relay League, Inc.	Apr. 21, 1978.
		Filed by Ronald Giesnes, (K2RG)	Apr. 24, 1978.
		Filed by Bruce P. Bogert, (WA2SZV)	Do.
		Filed by R. Russell Eagan and David E. Hilliard, attorneys for R. L. Drake Co.	Apr. 26, 1978.
		Filed by Dennis J. Had (K8KXK), president for DenTron Radio Co., Inc. (This petition was filed in Docket No. 21116 only).	Do.
21318, RM-2638, RM-2773, RM-2777.	Pt. 95	Revision of subpt. D of pt. 95 of the Commission's rules, citizens band radio service.	
		Filed by Michael A. Brown, executive director for the Consumer Product Safety Commission.	May 3, 1978.
19528		Proposals for new or revised classes of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS).	
		Filed by Jan David Jubon, P.E	May 1, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12901 Filed 5-11-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 245]

TROPICAL SAVINGS INVESTORS, INC.

Receipt of Application

MAY 9, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Tropical Savings Investors, Inc. ("Investors") for approval of acquisition of control of Tropical Savings & Loan Association, Harlingen, Tex. ("Tropical"), and Jefferson Savings & Loan Association, McAllen, Tex. ("Jefferson"), both insured institutions, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and section 584.4 of the Regulations for Savings & Loan Holding Companies, said acquisitions to be effected through an exchange offer of one share of Investors' common stock for each share of Tropical's capital stock, conditioned on a minimum tender of 81 percent of Tropical's shares, and through the purchase for cash of all the outstanding capital stock of Jefferson. Comments on the proposed acquisitions should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this Notice appears in the FEDERAL REGISTER.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc. 78-12979 Filed 5-11-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 22, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 9981-7.

FILING PARTY: Charles F. Warren, Attorney, Warren & Associates. P.C., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

SUMMARY: Agreement No. 9981-7 would extend the term of the Far East Discussion Agreement for three years from the date of its approval by the Federal Maritime Commission. In addition, the agreement would delete from the scope of discussions authorized under Agreement No. 9981, as amended, Item 2. "Cost of Service;" and in consequence thereof, Item 3 is being renumbered as Item 2. Agreement No. 9981, as amended, is presently set to expire with June 20, 1978.

Notice is also hereby given that Agreement No. 9981-6, which would extend the term of the Far East Discussion Agreement for one year from the date of its approval by the Commission, has been withdrawn by its proponents. Notice of Agreement No. 9981-6 appeared in the FEDERAL REGISTER of May 1, 1978, in Volume 43, No. 84, at Page 18612

By Order of the Federal Maritime Commission.

Dated: May 9, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12978 Filed 5-11-78; 8:45 am]

[6820-34]

GENERAL SERVICES ADMINISTRATION

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting of Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the Telecommunications Subcommittee meeting on May 18, 1978, from 10 a.m. to 3 p.m. The meeting will be held in Room 334, Colgate Building, Darden Graduate School of Business Administration, University of Virginia, Charlottesville, Va.

The subcommittee is a part of the Advisory Committee for the President's Administrative Services Reorganization Project. The purpose of this meeting is to discuss in detail effective means of organizing and managing telecommunications. In order to meet the scheduled requirements of the full committee it will be necessary to hold the meeting on the date scheduled. This meeting will be open to the public.

Dated: May 9, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-13081 Filed 5-11-78; 8:45 am]

[6820-34]

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting of Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the Supply and Support Services Subcommittee meeting on May 16, 1978, from 9:30 a.m. to 3 p.m. The meeting will be held in room 1129 of Crystal Mall Building No. 4, 1945 Jefferson Davis Highway, Arlington, Va.

The subcommittee is a part of the Advisory Committee for the President's Administrative Services Reorganization Project. The purpose of this meeting is to discuss in detail effective means of organizing and managing supply and support services. In order to meet the scheduled requirements of the full committee it will be necessary to hold the meeting on the date scheduled. This meeting will be open to the public.

Dated: May 8, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-12924 Filed 5-11-78; 8:45 am]

[6820-34]

[Intervention Notice 63; Docket No. 36786]

AMERICAN BUS ASSOCIATION

Definition of For-Hire Motor Transportation of Passengers

The Administrator of General Services seeks to intervene in a proceeding before the Interstate Commerce Commission involving a Petition for a Declaratory Order by the American Bus Association, which concerns a rulemaking proceeding involving transportation services for certain disadvantaged persons. The Administrator of General Services will represent the interests of federally funded entities providing transportation for disadvantaged persons and is acting on behalf of the United States, in its soverign capacity, for the health, welfare, and general betterment of its citizens.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before June 12, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C 481(a)(4))

Dated: May 2, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-12964 Filed 5-11-78; 8:45 am]

[6820-34]

[Intervention Notice 57]

MISSOURI PUBLIC SERVICE COMMISSION, GAS SERVICE CO.

Proposed Intervention in Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Missouri Public Service Commission involving an application of Gas Service Co. for an increase in its tariffed rates for intrastate gas service. The Administrator of General

Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before June 12, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: April 4, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-12886 Filed 5-11-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

EMPLOYEES OF NEW YORK STATE PSYCHIATRIC INSTITUTE

Research on Mental Health; Authorization of Confidentiality

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a) all persons who—

1. Are employed by the New York State Psychiatric Institute; and

2. Have, in the course of such employment, access to information which would identify individuals who are the subjects of research on mental health, pursuant to the Department of Health, Education, and Welfare grant numbered MH 19560 pertaining to the study of children at risk for schizophrenia referred to as A Prospective Study of Children of Schizophrenic Parents, are hereby authorized to protect the privacy of the individuals who are the subjects of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals.

As provided in Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)):

Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization does not authorize employees of New York State Psychiatric Institute to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to Department of Health, Education, and Welfare Grant numbered MH 19560. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to Department of Health, Education, and Welfare Grant numbered MH 19560 which would identify individuals who are subjects of the research conducted under the grant.

Dated: April 27, 1978.

THOMAS F. A. PLAUT,
Deputy Director, National Institute of Mental Health.

ROBERT L. DUPONT,
Director, National Institute on Drug Abuse.

GERALD L. KLERMAN,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-12823 Filed 5-11-78; 8:45 am]

[4110-86]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Cancellation of Meeting

The meeting of the Coal Mine Health Research Advisory Committee, scheduled for May 12, 1978, in Rockville, Md., is hereby cancelled. Notice of this meeting was announced in the FEDERAL REGISTER, Vol. 43, No. 68, page 14736, April 7, 1978.

Dated: May 2, 1978.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 78-12970 Filed 5-11-78; 8:45 am]

[4110-86]

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Safety and Occupational Health Study Section.

Date: June 7-8-9, 1978.

Place: Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Time: 9 a.m.

Type of Meeting: Open: 9 a.m. to 10:30 a.m. on June 7, 1978. Closed: Remainder of meeting.

Contact Person: Donald F. Flick, Ph. D., Executuve Secretary, 5600 Fishers Lane, Parklawn Building, Room 8-63, Rockville, Md. 20857. Telephone: 301-443-4493.

Purpose: The Committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include consideration of minutes of previous meeting, and administrative and staff reports. Beginning at 10:30 a.m., June 7, 1978, through adjournment on June 9, 1978, the Study Section will be performing the initial review of research grant and training grant applications for Federal Assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Tile 5 U.S. Code, and the Determination of the Director, Center for Disease Control, pursuant to Public Law 92-463. Agenda items are subject to change as priorities dictate. The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 2, 1978.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 78-12969 Filed 5-11-78; 8:45 am]

[4110-03]

Food and Drug Administration

ARTHRITIS ADVISORY COMMITTEE

Agenda Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Arthritis Advisory Committee meeting announced by a notice in the FEDERAL REGISTER of April 25, 1978 (43 FR 17542) for May 18 and 19, 1978, has made an agenda change. Discussion of Topical Dimethyl Sulfoxide (DMSO) for Scleroderma will not be held as planned. The meeting will be held in Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, with the open committee discussion beginning at 9 a.m. on May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

John G. Harter, M.D., Bureau of Drugs (HFD-150), Food and Drug Administration, Department of

Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

Dated: May 8, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13067 Filed 5-11-78; 8:45 am]

[4110-03]

PANEL ON REVIEW OF CONTRACEPTIVES AND OTHER VAGINAL DRUG PRODUCTS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document gives notice that the Panel on Review of Contraceptives and Other Vaginal Drug Products meeting announced by a notice published in the FEDERAL REGISTER of April 21, 1978 (43 FR 17049) for May 19 and 20, 1978, with the open public hearing scheduled for May 19, from 9 a.m. to 10 a.m., has been changed. The open public hearing will be held on May 20, 1978, from 9 a.m. to 10 a.m., during which a presentation regarding evaluations of vaginal contraceptives will be given by William H. Masters, M.D. The open committee discussion will be held on May 19, 1978, from 9 a.m. to 4:30 p.m., and on May 20, 1978, from 10 a.m. to 4:30 p.m. The meeting will be held in Conference Room A, Parklawn, Building, 5600 Fishers Lane, Rockville, Md. 20857, on May 19, 1978, and in the Georgia Room, Holiday Inn, Bethesda, Md. 20014, on May 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Armond M. Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

Dated: May 8, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13068 Filed 5-11-78; 8:45 am]

[4110-03]

[Docket No. 78N-0115]

CERTAIN VASCULAR GRAFTS

Transfer of Responsibility From Bureaus of Biologics and Drugs to Bureau of Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that it has transferred responsibility for regulating vascular grafts of animal (including human) origin from the Bureau of Biologics and the Bureau of Drugs to the Bureau of Medical Devices.

ADDRESS: Address all submissions (e.g., inquiries, and applications for premarket approval or investigational exemptions) concerning vascular grafts described in this notice to Document Control Center (HFK020), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910.

FOR FURTHER INFORMATION CONTACT:

Joseph Hackett, Ph. D., Bureau of Medical Devices (HFK-403), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7443.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration published a notice in the FEDERAL REGISTER of December 16, 1977 (42 FR 63472) explaining how FDA is implementing section 520(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 et seq.). Because the Medical Device Amendments broadened the definition of "device" in section 201(h) of the act (21 U.S.C. 321(h)), certain products that were once regarded as drugs are now regarded as devices. Section 520(1) (21 U.S.C. 360(1)), a provision of the Medical Device Amendments of 1976 (Pub. L. 94-295), assures that premarket approval requirements continue for devices that the agency once regarded as new drugs or antibiotic drugs. The December 16, 1977 notice explained that, within FDA, the Bureau of Medical Devices would gradually assume responsibility for regulating devices that have been regulated as drugs.

Under the new definition of device and section 520(1), vascular grafts of animal origin (including human origin) are devices that have been classified by statute into class III, the premarket approval category, because FDA had regarded them as new drugs. These vascular grafts are made from veins and arteries of humans or other animals. For example, grafts have been made from blood vessels removed from human umbilical cords or from cows. Surgeons may implant vascular grafts as prostheses in patients suffering from certain vascular diseases.

Vascular grafts of nonhuman origin have been the responsibility of the Bureau of Drugs; vascular grafts of human origin have been the responsibility of the Bureau of Biologics. Effective immediately, regulation of both of these types of vascular grafts is the responsibility of the Bureau of Medical Devices.

Dated: May 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12944 Filed 5-11-78; 8:45 am]

[4110-03]

[Docket No. 77N-0213]

DRUGS FOR HUMAN USE; DRUG EFFICACY STUDY IMPLEMENTATION

Revocation of Exemption from Periodic Reporting for New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revokes the previously granted exemptions from periodic reporting for certain new drug applications (NDA's) covering prescription drug products. The exemptions were granted in the Drug Efficacy Study Implementation (DESI) notices listed below.

DATES: Effective May 12, 1978; initial reports due on or before August 10, 1978, or on the anniversary of the date that the application was approved or became effective, whichever date is later.

ADDRESSES: Reports in response to this notice should be identified with Docket No. 77N-0213 and the appropriate NDA or abbreviated new drug application (ANDA) number, directed to the attention of the office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. For NDA's: If known, appropriate division in New Drug Evaluation, or if not known, Documents and Records Section (HFD-106), room 8B-21, Bureau of Drugs. For ANDA's: Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Behrens, Bureau of Drugs (HFD-105), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: Under the authority of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), §§ 310.300(b)(4) and 310.302(e) (21 CFR 301.300(b)(4) and 310.302(e)) of the new drug regulations require the holder of an NDA to submit reports of experience periodically on the anniversary of the date that the application was approved or became effective. In the following DESI notices published in the FEDERAL REGISTER between 1969 and early 1971, FDA exempted effec-

tive drug products named or covered by the notices from the requirements:

DESI numbers	Date published and FEDERAL REGISTER citations
159	Nov. 8, 1969, 34 FR 18098.
1096	Oct. 15, 1970, 35 FR 16191.
2139	Aug. 25, 1970, 35 FR 13538.
2245	Sept. 25, 1969, 34 FR 14775.
3158	Aug. 1, 1970, 35 FR 12356.
4054	Nov. 28, 1970, 35 FR 18215.
4203	Sept. 17, 1970, 35 FR 14576.
5596	Feb. 26, 1969, 34 FR 2619.
5963	Sept. 10, 1969, 34 FR 14248.
6188	Mar. 19, 1969, 34 FR 5392.
6470	Mar. 12, 1969, 34 FR 5126.
6535	Sept. 9, 1969, 34 FR 14181.
6811	Sept. 26, 1969, 34 FR 14856.
7073	June 23, 1970, 35 FR 10239.
7750	Oct. 21, 1970, 35 FR 16424.
7898	Mar. 9, 1971, 36 FR 4561.
8279	May 21, 1969, 34 FR 7995.
8564	Apr. 8, 1969, 34 FR 6262.
8729	Sept. 10, 1969, 34 FR 14247.
9551	Mar. 8, 1969, 34 FR 5036.
9698	Sept. 19, 1970, 35 FR 14663.
10996	Apr. 8, 1969, 34 FR 6264.
11340	Oct. 15, 1970, 35 FR 16200.
11836	Aug. 26, 1970, 35 FR 13608.
11919	Sept. 23, 1970, 35 FR 14802
12665	Sept. 17, 1970, 35 FR 14581.
13026	Feb. 13, 1969, 34 FR 2144.

After this relatively short trial period, it became apparent to FDA's staff responsible for reviewing NDA's that the periodic reports were needed to maintain surveillance of the products after approval. In particular it was useful for the agency to receive annual distribution information—one of the items required to be reported—and currently used labeling—another item required to be submitted. Accordingly, no further exemptions from periodic reporting were granted. Although some NDA holders continued to submit the reports, notwithstanding the exemption, others did not. This notice revokes those early exemptions and will restore those drugs to the same reporting requirements applicable to all other drugs that are the subject of an approved NDA.

Accordingly, this notice revokes the exemption and reinstates the periodic reporting requirement for all prescription drugs that are the subject of an approved NDA or ANDA covered by the DESI notices listed above or any other DESI notice. For complying with this notice, the first report is to contain the required information for the past year (1977). The report is to be submitted on or before August 10, 1978, or on the anniversary of the date that the application was approved or became effective, whichever date is later. Thus, all NDA holders will have at least 90 days to prepare and submit the required report. Thereafter, a report is to be submitted at 3-month, 6-month, or 12-month intervals, as specified in the regulations, on the anniversary of the date that the application was approved or became effective.

At one time, drugs identified on the so-called "PMA list" were exempted from certain reporting required by § 130.35 (recodified as § 310.302) pending litigation instituted by the Pharmaceutical Manufacturers Association and a number of its members (the litigation was subsequently dismissed by stipulation). But the requirements of §§ 310.300(b)(4) and 310.302(e) for reporting on the anniversary of the approval date or effectiveness date of an NDA apply to all drugs, including those on the "PMA list." This is mentioned so that it will be clear to all affected persons that, on publication of this notice revoking exemptions that appeared in previous FEDERAL REGISTER DESI notices, no exemptions from the periodic reporting requirements of §§ 310.300(b)(4) and 310.302(e) are in effect for prescription drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: May 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affair.

[FR Doc. 78-12943 Filed 5-11-78; 8:45 am]

[1505-01]

Food and Drug Administration

[Docket No. 78N-0072]

FOOD CHEMICALS CODEX MONOGRAPHS

Opportunity for Public Comment on Revisions

Correction

In FR Doc. 78-10333, appearing at page 16413 in the issue of Tuesday, April 18, 1978, the last line of the second full paragraph in the third column should read, "June 25, 1971 (36 FR 12093)." and the 19th entry in the list of substances proposed for revision should read, "Caramel".

[4110-83]

Health Resources Administration

HEALTH SYSTEMS AGENCY APPLICATION INFORMATION

Pursuant to section 1515 of the Public Health Service Act notice is hereby given that application materials are available in DHEW Regional Office IX for entities interested in applying for designation as the health systems agency (HSA) for Arizona Health Service Area 3. This health systems agency will be responsible for health planning for the health service area and for the promotion of the development of health services, manpower and facilities which meet identified needs, reduce documented inefficiencies and implement the health plans of the agency.

There presently is a conditionally designated health systems agency, a public regional planning body, for this health service area. However, this agency recognizes that it will most likely not be able to meet the requirements of full designation as it is currently constituted. Therefore, we are seeking applications for a new agency.

Those entities interested in applying for designation must file a letter of intent to apply for such designation with DHEW Regional Office IX by June 26, 1978, and an application by July 26, 1978.

Application materials and further information may be obtained from the Regional Health Administrator, DHEW Regional Office IX, 50 United Nations Plaza, San Francisco, Calif. 94102.

Once the health systems agency is designated it will be entitled to receive a planning grant under section 1516 of the Act. The amount of the planning grant will be determined in accordance with a formula set forth in the regulations governing this program (42 CFR Part 122, Subpart C), and will be based in part, upon a determination by the Secretary of the population of the health service area. Section 122.204 of the governing regulations provides that the Secretary will determine the populations of such areas based upon the latest available estimate from the Department of Commerce and will publish annually in the FEDERAL REGISTER a list of all health service areas and their populations.

Dated: May 8, 1978.

HAROLD MARGULIES,
Acting Administrator.

[FR Doc. 78-12833 Filed 5-11-78; 8:45 am]

[4110-84]

PHS HOSPITALS AD HOC ADVISORY COMMITTEE

Meeting; Amendment

NOTE.— This document originally appeared at page 200056, in the FEDERAL REGISTER for May 10, 1978. It is reprinted in this issue to meet assigned day-of-the-week requirements.

In FR Doc. 78-9846 appearing at page 15781 in the issue for Friday, April 14, 1978, the notice of meeting for the "PHS Hospitals Ad Hoc Advisory Committee" has been amended as follows:

Name: PHS Hospitals Ad Hoc Advisory Committee.

Date and Time: May 12, 1978, 8:30 a.m. (open).
Place: PHS Carville Hospital, Conference Room, Training Building, Carville, La. 70721.
Date and Time: May 13, 1978, 8:30 a.m. (closed).
Place: PHS New Orleans Hospital, Conference Room C, 210 State Street, New Orleans, La. 70118.
Open on May 12, 1978.
Closed on May 13, 1978.
Purpose: Agenda items for the open portion of the meeting include a review of the Committee's charge and development of a work plan, a discussion of methodology and eligibility data, and an overview of PHS hospitals. On May 13 the meeting will be closed to the public to conduct an in-depth examination of each PHS hospital. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Jordan Popkin, Office of the Administrator, Health Services Administration, Parklawn Building, Room 14-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2245.

Agenda items are subject to change as priorities dictate.

Dated: May 8, 1978.

W. HARELL LITTLE,
Acting Associate Administrator for Management.

[FR Doc. 78-12835 Filed 5-9-78; 8:45 am]

[4110-02]

Office of the Assistant Secretary for Education

STATEMENT OF MISSION, ORGANIZATION, FUNCTIONS, AND ORDER OF SUCCESSION

Part E, Education Division, Chapter EA, Office of the Assistant Secretary for Education, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, published in the FEDERAL REGISTER at 39 FR 32342 on September 6, 1974, and at 41 FR 52540 on November 30, 1976, is hereby deleted and a new statement is added as follows: This effects a realignment of functions within the Office of the Assistant Secretary for Education.

Sec. EA.00 *Mission.* The Assistant Secretary for Education is responsible for general direction and supervision of the Education Division, a Principal Operating Component of the Department of Health, Education, and Welfare; and serves as key advocate for assuring that the Department provides professional and financial assistance to strengthen education in accordance with Federal laws, rules, and regulations. In addition, the Assistant Secretary serves as principal advisor to the Secretary on education affairs. Executive Order 11761 designates the Assistant Secretary for Education as Chairperson of the Federal Interagency Committee on Education, which was established to facilitate the coordination of education activities of Federal agencies. Under the Order, the Secretary of the Department of Health, Education, and Welfare, with the assistance of the Assistant Secretary for Education, identifies the Nation's education needs and goals and recommends, to the President, policies promoting the progress of education.

Sec. EA.10 *Organization.* A. The Office of the Assistant Secretary for Education is under the supervision of the Assistant Secretary for Education who heads the Education Division and reports directly to the Secretary.

B. The Office of the Assistant Secretary for Education includes the following positions and their respective staffs:

Assistant Secretary for Education
  Executive Director, Federal Interagency Committee on Education
  Director, Office of Policy Communication
Deputy Assistant Secretary for Education
Deputy Assistant Secretary for Education (Policy Development)
Deputy Assistant Secretary for Education (Management and Budget)
Administrator, National Center for Education Statistics
Director, Fund for the Improvement of Postsecondary Education

Sec. EA.20 *Functions.* 1. The Assistant Secretary for Education is the principal officer in the Department responsible to the Secretary for direction and supervision of the Education Division and for providing advice and consultation to the Secretary on all aspects of the Department's education activities. As Chairperson of the Federal Interagency Committee on Education, the Assistant Secretary for Education also is responsible for facilitating coordination of education activities of other Federal agencies with Education Division programs. The Executive Director of the Federal Interagency Committee on Education is responsible for the planning and administration of the Committee's activities.

The Director, Office of Policy Communication, reports directly to the Assistant Secretary for Education. The Office of Policy Communication is responsible for monitoring the activities of the education community to provide timely and accurate information on its program and legislative objectives. The work of the office of policy Communication also includes the development and implementation of information activities to assure that the programs and policies of the Education Division are communicated effectively to the education community and the general public. The Office of Policy Communication coordinates all public affairs activities of the Division involving relationships with the education community, including appropriate State agencies.

2. The Deputy Assistant Secretary for Education serves as principal deputy to the Assistant Secretary for Education and acts as Assistant Secretary during the absence or disability of the Assistant Secretary, or if a vacancy occurs in the position of Assistant Secretary for Education.

Represents the Assistant Secretary for Education and interprets Federal education policies and programs to the education community and the general public. Provides day-to-day guidance and support to the Office of Policy Communication. The Deputy Assistant Secretary for Education is responsible for ensuring that the views of the education community are considered in the policymaking processes of the Division.

The Deputy Assistant Secretary for Education participates in the policy development and implementation process as it pertains to the development of legislation. Advises and consults with the Assistant Secretary for Education on new policy initiatives, establishment of priorities, and provision of policy guidance to Education Division agency public information offices. Provides principal day-to-day support and guidance to the Federal Interagency Committee on Education.

Serves as the Education Division's principal liaison to the Office of the Deputy Under Secretary for Intergovernmental Affairs. Also serves as principal liaison between the Department and the Department's Regional Centers on all aspects of the Education activities of the Regional Centers.

3. The Deputy Assistant Secretary for Education (Policy Development) coordinates development of general programmatic education policies in the Education Division, including formulation of program and legislative initiatives. Provides guidance in determination of priorities, objectives, and goals for education, including formulation of recommendations to the Assistant Secretary. Facilitates communication among components of the Division to ensure effective implementation of short- and long-term policy decisions.

Coordinates 5-year plans and program evaluation for the Assistant Secretary for Education. Monitors research and statistical activities in the agencies comprising the Education Division, as they relate to policy development. Advises the Assistant Secretary for Education on key implementation issues. Chairs the Education Data Acquistion Council.

Recommends program and policy issues for analysis and coordinates necessary studies and actions to be undertaken within the Education Divi-

sion. Coordinates development of data used at the level of the Assistant Secretary for Education and within the agencies comprising the Education Division.

4. The Deputy Assistant Secretary for Education (Management and Budget) is the principal advisor to the Assistant Secretary for Education, and promotes the Assistant Secretary's policies and goals, on all aspects of the relationship of budget formulation to the development of federal education policy, and in all areas of oversight and coordination of management functions in the Education Division. Applies an intimate knowledge of policy development processes and educational administration in the Education Division, as well as detailed familiarity with the personal policy positions of the Assistant Secretary for Education, to review of education agency budget requests and analysis of agency program management. Works closely with the Deputy Assistant Secretary for Education (Policy Development) to ensure that the education budget, as proposed to the Office of Management and Budget and as presented to the Congress, reflects Federal education policy as determined by the Assistant Secretary for Education, the Secretary, and the President; and to ensure that activities undertaken in the formulation of education policy reflect the concerns of the Department and the Congress which the incumbent is aware of through representation of the Assistant Secretary for Education in the budget formulation process.

In furtherance of the foregoing, the Deputy Assistant Secretary for Education (Management and Budget) is principal advisor to the Assistant Secretary for Education on Education Division matters pertaining to formulation, analysis, and presentation of budgets; staff resource allocations; and all aspects of administrative and financial management. Establishes Education Division policy in management and budget, and oversees the management and budget activities of the Department's education agencies.

Represents the Assistant Secretary for Education with the staff of other Assistant Secretaries, the Office Management and Budget, the general public and, in coordination and consultation with the Assistant Secretary for Legislation, the Congress on policies and procedures relating to management and budget activities of the education Division. Represents the Assistant Secretary for Education in presenting, justifying, and interpreting the Education Division budget and related appropriations matters to the Secretary, the Office of Management and Budget, and, in consultation and coordination with the ASL, the Congress.

Works with the Assistant Secretary for Management and Budget and the Under Secretary in the preparation of budget estimates and forecasts of resources required to support programs and activities of the Education Division. Establishes and maintains appropriate management policies, procedures, and systems throughout the Education Division. Provides administrative policy guidence to the Education Division. Supervises all management, administrative, budget, and financial activities within the Office of the Assistant Secretary for Education.

5. The Administrator, National Center for Education Statistics (NCES), collects and disseminates statistics and other data related to education in the United States and in other nations. Collects, reviews, and annually reports to Congress statistics on the condition of education in the United States. Conducts and publishes reports on in-depth analyses of the meaning and significance of such statistics. Assists State and local educational agencies in improving and automating their statistical and data collection activities. Reviews statistics and reports on education activities in other nations. Conducts intensive research and development activities in the areas of survey methods and statistical applications. Provides statistical consultation to officials of the Education Division and others.

The National Center for Education Statistics includes the Office of the Administrator and the following divisions. The functions of each are as follows:

a. Office of the Administrator. Establishes and maintains consultative and working relations with the Education Division, the Department, Congressional committees, other governmental agencies, and other users and producers of education statistics. Deliberates with and provides senior staff technical support to the Advisory Council on Education Statistics. Coordinates NCES activities with the Federal interagency Committee on Education. Directs the Federal interagency Consortium of Users of Education Statistics. Provides staff assistance to the Education Data Acquisition Council, including the Executive Director. Prepares the annual Data Acquisition Plan for the Education Division. Provides NCES with administrative, logistical, and management services. Promotes formulation of statistical standards appropriate to the work of NCES. Develops improved statistical methods and techniques for application in NCES operations. Develops and enforces standards designed to protect the confidentiality of personal data in the collection, reporting, and publiction of data.

b. Division of Elementary and Secondary Education Statistics. Coordinates, designs, develops, and implements an integrated data system of elementary and secondary education statistics to meet Federal, State, and local, governmental and private institutional needs for planning, management, and evaluation purposes. Develops standardized terminology and data definitions to promote compatibility of reporting of data. Plans, designs, conducts, and reports on statistical surveys and studies of elementary and secondary institutions and populations and educational manpower. Provides statistics and anaylses in these areas in support of the Center's mission to collect and report statistics on the condition of education in the United States. Ascertains from the elementary and secondary education community the need for additions to, modifications in, or deletions from the data collected by NCES, as well as the periodicity of recurring survey activity. Conducts in-depth statistical analyses of elementary and secondary education data bases, derived from both NCES data and data available from other sources and prepares analytical reports applying the data to education policy issues and problems.

c. Division of Postsecondary and Vocational Education Statistics. Coordinates, designs, develops, and implements an integrated data system of postsecondary and vocational education statistics to meet Federal, State, local and private institutional needs for planning, management, and evaluation purposes. Develops standardized terminology and data definitions in these fields to promote compatibility of reporting of data. Plans, designs, conducts, and reports on statistical surveys and studies of colleges and universities; adult, continuing, and vocational education institutions; and postsecondary and vocational populations. Provides statistics and analyses in these areas in support of the Center's mission to collect and report statistics on the condition of education in the United States. Ascertains from the postsecondary and vocational education community the need for additions to, modifications in, or deletions from the data collected by NCES, as well as the periodicity of recurring survey activity. Conducts in-depth statistical analyses of postsecondary and vocational education data bases, derived from both sources and prepares analytical reports applying the data to education policy issues and problems.

d. Division of Multilevel Education Statistics. Plans, designs, conducts, analyzes, and reports on statistical surveys and studies of libraries and learning resources, including educational broadcasting and technology. Develops, conducts, and analyzes all longitudinal surveys and studies in NCES. Is responsible for the development and application of education indicators and assessment tools, includ-

ing the National Assessment of Educational Progress. Develops indicators and conducts such surveys to compare education in the United States to that in other Nations, and maintains data on education statistics in foreign countries. Operates the Fast Response Survey System to provide rapid data on topics of immediate concern to education.

e. Division of Statistical Services. Develops and creates computerized data bases which are readily available to the education community. Operates the EDSTAT computerized information retrieval system for education statistics. Provides computer programming services for NCES. Ensures that contracts involving automated data processing comply with NCES standards and requirements. Plans, develops, coordinates and oversees the State assistance activities of NCES. Drafts regulations, guidelines, and procedure for Federal-State cooperative projects. Provides statistical information and analyses for other Federal components, the education community, and the general public. Develops and publishes an annual report on the condition of education, pursuant to section 406(d) of Pub. L. 93-380. Develops and applies statistical time-series techniques and models to project education statistics. Provides editorial and publication services for NCES. Provides forms control for all public use forms for NCES, and provides forms design service for all parts of the Education Division.

6. The Director, Fund for the Improvement of Postsecondary Education, is responsible for the planning and administration of the Fund, including preparation of program and budgetary plans and supervision of staff necessary to implement those plans.

Sec. EA.30 *Order of succession.* During the absence or disability of the Assistant Secretary for Education, or in the event of a vacancy in that position, the first official listed below who is available shall act as Assistant Secretary, except during a period of planned absence for which a different order has been designated as provided in (b) below.

(a) (1) Deputy Assistant Secretary for Education.

(2) Deputy Assistant Secretary for Education (Policy Development).

(3) Deputy Assistant Secretary for Education (Management and Budget).

(b) For a planned period of absence, the Assistant Secretary may specify a different order of succession.

Dated: April 27, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-13101 Filed 5-11-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of March 1978 the following entities have been determined to be qualified health maintenance organizations (HMO's) under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

In addition, several corrections are announced at the end of the list: 1. A name change and an address correction, and 2. An HMO model designation correction with respect to previously qualified HMO's.

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. Capitol Health Care, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 960 Broadway, NE., suite 1, Salem, Oreg. 97301. Service area: Counties of Marion and Polk, Oreg. Date of qualification: March 1, 1978.

2. The Northern California Institute for Medical Service, Inc. d.b.a. Rockridge Health Care Plan, (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 420 40th Street, Oakland, Calif. 94609. Service area: Cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Kensington, Oakland, Piedmont, and Richmond, Calif. Date of qualification: March 31, 1978.

(Preoperational Qualified Health Maintenance Organizations: 42 CFR 110.603(c))

3. Health Maintenance Organization of Baton Rouge, Inc., (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 9151 Interline Avenue, Baton Rouge, La. 70609. Service area: Parishes of Ascension, East Baton Rouge, Livingston, and West Baton Rouge, La. Date of qualification: March 13, 1978.

4. Crossroads Health Plan, (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 141 South Harrison Street, East Orange, N.J. 07018. Service area: Essex County, N.J. (city of Newark to be included beginning November 1, 1978). Date of qualification: March 17, 1978.

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

5. HMO Concepts, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 1110 East Chapman Avenue, Orange, Calif. 92666. Service area: Orange County, Calif. Date of qualification: March 17, 1978.

NAME CHANGE AND ADDRESS CORRECTION

Change from: Colorado Health Care Services, Inc., 2040 South Oneida Street, Denver, Colo. 80206.

Change to: Comprecare, Inc., P.O. Box 22047, 2040 South Oneida Street, Denver, Colo. 80222.

Date of qualification: Transitionally qualified—August 20, 1976 (41 FR 41137).

HMO MODEL DESIGNATION—CORRECTION

In the annual cumulative list of qualified HMO's published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14908), delete the following name from the medical group listing and insert it in the alphabetical listing of staff models:

Community Health Care Center Plan, Inc., Date of qualification: Transitionally qualified—October 31, 1975 (40 FR 54606).

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Division of Health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: May 5, 1978

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-13023 Filed 5-11-78; 8:45 am]

[4110-02]

Office of Education

FOLLOW THROUGH

Closing Date for Receipt of Applications (By Invitation Only) for Additional Fiscal Year 1978 Funds

Notice is hereby given that under the authority contained in title V, parts B and C of the Economic Opportunity Act, as amended by section 8(a) Pub. L. 93-644, applications will be accepted for additional fiscal year 1978 funds for the purpose of conducting expanded demonstration activities.

CLOSING DATE—JULY 17, 1978

A. *Application forms and information.*—Applicants will be invited to apply for these funds by letter of invitation from the Commissioner of Education or his authorized representative. Letters of invitation are expected to be mailed by June 15, 1978. Enclosed with the letters of invitation will be the necessary application forms and instructions for completing these forms.

B. *Applications sent by mail.*—An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.433D, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to unexpected circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than July 12, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service: or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.*—An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays.

D. *Program information.*—It is anticipated that approximately 20 grant awards will be made in fiscal year 1978 for the 1978-79 school year. In fiscal year 1977 for the 1977-78 school year, the individual awards for this purpose ranged from $91,000 to $169,761.

E. *Eligibility requirements.*—The Commissioner or his authorized representative will extend invitations from among those agencies, organizations, or institutions: (1) whose fiscal year 1978 applications for operating local Follow Through projects have been approved for refunding; and (2) whose fiscal year 1978 applications for operating local Follow Through projects were judged to be satisfactory according to the funding criteria stated in § 158.15 (a) through (k), (m), and (n) of the Follow Through final regulations (45 CFR part 158), and were judged to be outstanding according to the criteria stated in § 158.15 (l) and (o) of those regulations. In order to be noted outstanding according to the criterion stated in § 158.15(o), the applicant must have had educational practices validated by the Office of Education/National Institute of Education's Joint Dissemination Review Panel. Each applicant submitting applications to receive additional funds for expanded demonstration activities must show that the applicant has the capability of demonstrating educational practices to large numbers of interested persons. Factors to be used in determining capability include the following: geographic location, ease of accessibility, availability of transportation and lodging facilities for large numbers of persons, and personnel resources.

F. *For further information contact.*—Ms. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, 400 Maryland Avenue SW., Room 3624, ROB 3, Washington, D.C. 20202.

G. *Applicable regulations.*—The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR part 100 and 100a) and the Follow Through regulations (45 CFR part 158) published in the FEDERAL REGISTER on June 29, 1977 at 43 FR 33146 et. seq.

(Title V, parts B and C of the Economic Opportunity Act, as amended by Pub. L. 93-644, sec. 8(a), 42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assistance No. 13.433 Follow Through Program.)

Dated: May 8, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-12988 Filed 5-11-78; 8:45 am]

[4110-12]

Office of the Secretary

DEPARTMENTAL GRANT APPEALS BOARD

Statement of Organization, Functions, and Delegations of Authority

Part A of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to add new chapter AHF, Departmental Grant Appeals Board. The new chapter reads as follows:

Section AHF.00 Mission. The Departmental Grant Appeals board is established by 45 CFR part 16 as an independent office receiving administrative support from the Office of the Assistant Secretary for Personnel Administration for the purpose of reviewing and deciding certain post-award disputes between grantees and constituent agencies (Principal Operating Components) of the Department.

Section AHF.10 Organization. The Departmental Grant Appeals Board is headed by a Chairman who operates under the supervision of the Under Secretary. The Chairman is assisted by an Executive Secretary of the Board, who is not a member of the Board, and who is responsible for nominating Board members, assuring compliance with the procedural requirements of the grant appeals process, determining and recommending such changes to the procedures as may be needed to enhance their effectiveness, and for supervising the staff of analysts and other personnel providing research, administrative, clerical, and other services in support of the Board.

Section AHF.20 Functions. The Board has jurisdiction over determinations (including termination in whole or in part of a grant, voiding of a grant, disallowance of expenditures, disapproval of a grantee's request for approval for expenditures, and determinations with respect to negotiated cost allocation plans, indirect cost rates, and other special rates) made be an official of the granting agency under direct, discretionary grants and under other programs (including formula grants) which the constituent agency, with the approval of the Secretary, may designate. The Board does not have jurisdiction over disputes for which the grantee is entitled to a hearing under the Administrative Procedures Act or for which the Secretary has approved an alternative procedure for review and resolution of the dispute.

Although a constituent agency may establish intermediate appeal processes prior to submission of a dispute to the Board, the Departmental Grant Appeals Board is the final level of appeal within the Department. With respect to reconsiderations under section 1116(d) of the Social Security Act, the decision of the Board is the final administrative decision. With respect to decisions under other programs, the decision of the Board is subject to review on the record by the head of the appropriate constituent agency.

The Board is composed of members appointed by the Secretary for such terms as may be designed by him. Board members may be from within or outside the Department. With the exception of the member designated by the Secretary as Chairman of the Board, who serves on a full-time basis, Board members normally serve on an as-needed basis. Decisions of the Board are made by a panel of not less than three members designated by the

Chairman, or, at the Chairman's discretion, by the entire board. Members of a panel designated to decide an appeal may not have been associated with the particular case either directly or by reason of organizational affiliation. The procedures used in deciding appeals are found in 45 CFR part 16.

Dated: May 2, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-13022 Filed 5-11-78; 8:45 am]

[4110-88]

Public Health Service

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1654, January 11, 1974, as amended by 41 FR 31249, July 27, 1976) is revised to reflect the transfer of the functions of construction management, safety management, energy conservation, and pollution control from the Division of General Services to the Division of Management Policy, Office of Administrative Management, Alcohol, Drug Abuse, and Mental Health Administration.

Section HM-B, *Organization and Functions* is amended as follows:

1. Under *Division of General Services (HMA75)*, delete "construction management, safety management, energy conservation, pollution control," from item (1).

2. Under *Division of Management Policy (HMA74)*, after item 7, change the period to a semicolon and add item (8) "plans and coordinates the activities of construction mangagement, safety mangagement, energy conservation, and pollution control for the Alcohol, Drug Abuse, and Mental Health Administration; (9) coordinates responsibility for the National Environmental Policy Act of 1969 within the Alcohol, Drug Abuse, and Mental Health Adminstration."

Dated: May 3, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-13201 Filed 5-11-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF PYRAZINAMIDE FOR POSSIBLE CARCINOGENICITY

Availability

Pyrazinamide (CAS 98-96-4) has been tested for cancer-causing activity with rats and mice in the Carginogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of the tuberculostatic drug pyrazinamide for possible carcinogenicity was conducted by administering the test chemical in feed to Fisher 344 rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were administered pyrazinamide at one of two doses, either 5,000 or 10,000 ppm, for 78 weeks, and then observed for an additional 26 or 27 weeks. Matched controls consisted of groups of 15 untreated rats and 15 untreated mice of each sex. High-dose male mice died or were killed by week 91; all other surviving animals were killed at weeks 104 or 105.

Mean body weights of the dosed male rats were slightly lower than those of the matched controls, while mean body weights of the dosed females were more nearly comparable to those of the controls. A sufficient number of rats in each group was at risk to termination of the study at weeks 104-105 for the development of late-appearing tumors.

In mice, administration of pyrazinamide had no consistent effect on mean body weights. Survival to termination of the study was low, particularly among the control groups.

It is concluded that under the conditions of this bioassay, the early deaths and small size of the control group precluded a conclusion regarding the carcinogenicity of pyrazinamide in female B6C3F1 mice. Pyrazinamide was not carcinogenic for Fischer 344 rats or for male mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: May 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-12705 Filed 5-11-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 4,4'-THIODIANILINE FOR POSSIBLE CARCINOGENICITY

Availability

4,4'-Thiodianiline (CAS 139-65-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 4,4'-thiodianiline for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were administered 4,4'-thiodianiline 5 days per week at one of the following doses, either 1,500 or 3,000 ppm for the rats and either 2,500 or 5,000 ppm for the mice. The period of administration of the chemical was 68-72 weeks for the rats and 77 or 79 weeks for the mice, depending on the length of survival time of the animals. Matched controls consisted of groups of 15 untreated rats and 14 untreated mice of each sex. All surviving matched-control rats were killed at 104 weeks; all surviving matched-control mice were killed at 91 weeks.

The administration of 4,4'-thiodianiline resulted in marked reduction in mean body weights of the rats and mice of each sex, and all dosed animals died prior to the scheduled end of the study.

It is concluded that under the conditions of this bioassay, 4,4'-thiodianiline was carcinogenic for Fischer 344 rats, inducing tumors in the liver, thyroid, colon, and ear canal of male rats, and the thyroid, uterus, and ear canal of female rats. 4,4'-Tiodianiline was carcinogenic for B6C3F1 mice, inducing tumors in the liver and thyroid of both males and females.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: May 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-12706 Filed 5-11-78; 8:45 am]

[4110-08]

COMBINED MODALITY COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Combined

Modality Committee, National Cancer Institute, National Institutes of Health, May 24, 1978, which was published in the FEDERAL REGISTER on April 4, 1978 (43 FR 14130). This meeting is cancelled because no contract proposals are scheduled for review at this time.

Dated: May 2. 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-12707 Filed 5-11-78; 8:45 am]

[4110-08]

STATE-OF-THE-ART CONFERENCE IN SCREENING AND EARLY DETECTION OF COLORECTAL CANCER

Meeting

Notice is hereby given of a State-of-the-Art Conference in Screening and Early Detection of Colorectal Cancer, sponsored by the Division of Cancer Control and Rehabilitation, National Cancer Institute to be held June 26-28, 1978, at the Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Md. 20014.

The meeting will be open to the public from 9 a.m. to 5 p.m., on June 26 and 27, and from 9 a.m. to adjournment on June 28, to review and evaluate the techniques which have been proposed for colorectal cancer screening, the experience gained in screening programs which have already been undertaken, and the information available on the influence of early detection on the effectiveness of treatment. Attendance by the public will be limited to space available.

Those wishing to attend the meeting should contact Dr. Dorothy Brodie, Program Director for Radiology, Detection, Diagnosis, and Pretreatment Evaluation Branch, Division of Cancer Control and Rehabilitation, Blair Building, Room 628, telephone 301-427-7990, National Institutes of Health.

Dated: May 2, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-12908 Filed 5-11-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFSHORE THE MID-ATLANTIC STATES

Availability of Draft Environmental Statement and Holding of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 49

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement concerning a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 136 tracts consisting of 313,344 hectares (774,273 acres) of submerged lands on the OCS in the Baltimore Canyon offshore of the Mid-Atlantic States.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, N.Y. 10007, and the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries:

Massachusetts: Boston Public Library, Copley Square, Boston.
Rhode Island: Providence Public Library, 150 Empire Street, Providence.
Connecticut: Hartford Public Library, 500 Main Street, Hartford.
New York: Albany Public Library, Harmons Bleeker Building, 19 Dove Street, Albany; New York City Public Library, Fifth Avenue and 42nd Streets, New York; Nassau County Library System, Lower Concourse, Roosevelt Field, Garden City; and Suffolk County Cooperative Library System, 627 Sunrise Service Road, Bellport.
New Jersey: Trenton Free Library, 120 Academy Street, Trenton; Atlantic City Free Library, Illinois and Pacific Streets, Atlantic City; and Free Library of Elizabeth, 11 South Broad Street, Elizabeth.
Pennsylvania: Free Library of Philadelphia, Logan Circle, Philadelphia.
Delaware: Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach; and Wilmington Institute Free Library and Newcastle County Free Library, 10th and Market Streets, Wilmington.
Maryland: Eastern Shore Area Library, 122-126 South Division Street, Salisbury; and Enoch Pratt Free Library, 400 Cathedral Street, Baltimore.
Virginia: Norfolk Public Library System, 301 South City Hall Avenue, Norfolk.
North Carolina: Olivia Raney Public Library, 104 Fayetteville Street, Raleigh.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on June 27, 1978, and continuing through June 30, 1978, in the Ocean One Hotel, 3100 Boardwalk, Atlantic city, N.J. 08401. The hearing is scheduled between 9 a.m. and 5 p.m. June 27, 29 and 30 and between 9 a.m. and 9 p.m. on June 28. Depending upon the number of persons registering to testify, an additional evening session may be scheduled on June 29. The public hearing is held for the purpose of receiving comments and suggestions relating to the proposed lease sale.

The hearing will provide the Secretary with additional information from both public and private groups to help evaluate fully the potential effects of the proposed offering of the 136 tracts. Comments are solicited concerning effects on area marine, aesthetic, recreation, and other resources and on the Mid-Atlantic environment as a whole, as a result of exploration, development, and production phases of the proposed OCS lease sale. The hearing will also provide the Secretary with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives of organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:45 p.m., June 12, 1978. Written comments from those unable to attend the hearing also should be addressed to the Manager, New York Outer Continental Shelf Office, Bureau of Land Management at the above address. The Department will accept written testimony and comments from the public on the draft environmental statement until July 12, 1978. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the Manager, New York Outer Continental Shelf Office, at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and analyzed, a final environmental statement will be prepared.

GEORGE L. TURCOTT,
Associate Director,
Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of
the Interior.

[FR Doc. 78-12912 Filed 5-11-78; 8:45 am]

[4310-84]

Bureau of Land Management

[W-63231]

WYOMING

Notice of Application

MAY 4, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a value assembly site located on the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 109 W.,
Sec. 1, SE¼NW¼

The proposed site is an addition to Northwest Pipeline Corp's. gathering system and will connect into their proposed 26 inch O.D. Ignacio to Sumas Loop Line all within the SE¼SW¼ of Section 1, T. 14 N., R. 109 W., Sweetwater County, Wyo. and will consist of 0.04 acres.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so prompty. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12965 Filed 5-11-78; 8:45 am]

[4310-31]

Geological Survey

COSO HOT SPRINGS, CALIF.

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described landa are hereby defined as a known geothermal resources area effective January 2, 1978:

(5) CALIFORNIA

COSO HOT SPRINGS KNOWN GEOTHERMAL AREA
MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 22 S., R. 37 E.
Sec. 25;
Sec. 36.
T. 22 S., R. 38 E.
Sec. 6;
Sec. 8;
Sec. 13;
Secs. 15 through 17;
Secs. 19 through 36.
T. 23 S., R. 38 E.
Secs. 1 through 5;
Secs. 9 through 12.
T. 21 S., R. 39 E.
Secs. 22 through 26;
Secs. 35 and 36.
T. 22 S., R. 39 E.
Secs. 1 and 2;
Secs. 11 through 35.
T. 23 S., R. 39 E.
Secs. 4 through 7.
T. 21 S., R. 40 E.
Secs. 30 and 31.
T. 22 S., R. 40 E.
Secs. 6 and 7;
Sec. 18.

The area described aggregates 49,918 acres, more or less.

Dated: April 6, 1978.

HILLARY A. ODEN,
Acting Conservation Manager, Western Region.

[FR Doc. 78-12885 Filed 5-11-78; 8:45 am]

[4310-09]

Bureau of Reclamation

MCGEE CREEK PROJECT, OKLA.

Public Hearing on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the McGee Creek Project, Okla. This statement (INT DES 78-12, dated April 20, 1978) was made available to the public on April 21, 1978.

The draft environmental statement deals with a surface water project to meet expanding M&I water needs of Oklahoma city and parts of south central Oklahoma. Flood control, fish and wildlife, and environmental enhancement are other project purposes. The project includes a 155-foot-high, 2,300-foot-long dam; a 59-foot-high, 4,800-foot-long dike; a 3,350-acre reservoir; an 18.5-mile-long pipeline; an 8,900-acre natural scenic recreation area; a 10,000-acre wildlife management area; and appurtenant facilities.

Public hearings will be held at the Atoka County Community Center, Atoka, Okla., on June 12, 1978, and Civil Center, Hall of Mirrors, 200 N. Dewey, Oklahoma City, Okla., on June 13, 1978, to receive views and comments from interested organizations or individuals relating to the environmental impacts of this program. The hearings will commence at 7 p.m. Oral statements at the hearings will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible, and any scheduled speaker not present when called will lose his privilege in the scheduled order and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentation will be accepted up to 4 p.m., June 5, 1978, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact the office of the Regional Director, Bureau of Reclamation, Herring Plaza, Box H-4377, Amarillo, Tex. 79101, telephone 806-376-2401, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by June 20, 1978, for inclusion in the hearing record.

Dated: May 9, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-13065 Filed 5-11-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT DES 78-16]

PROPOSED LIVESTOCK GRAZING IN THE TULE-DAD-HOMECAMP AREAS OF LASSEN AND MODOC COUNTIES, CALIF., AND WASHOE COUNTY, NEV., SUSANVILLE DISTRICT, CALIF.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental statement for proposed livestock grazing in Modoc and Lassen Counties, Calif., and Washoe County, Nev. The proposal involves construction of fences and facilities to implement livestock grazing systems, provision of adequate forage and habitats for wildlife species, and consideration of other public uses on approximately 600,000 acres of public lands. The Department of the Interior invites written comments on the draft statement. Comments shoud be submitted within 45 days of this notice to the California State Director, Bureau of Land Management, 2800 Cottage Way, E-2841, Sacramento, Calif. 95825.

A limited number of copies are available upon request at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240. Telephone: 202-343-5717.

California State Office, Bureau of Land Management, Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825. Telephone: 916-484-4541.

Susanville District Office, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, Calif. 96103. Telephone: 916-257-5385.

Dated: May 8, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-12813 Filed 5-11-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Final 1978 Revised Aggregate Production Quotas and Establishment of an Interim 1978 Aggregate Production Quota for Amphetamine

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedule I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On March 21, 1978, a notice of the proposed revised aggregate production quotas for 1977 was published in the FEDERAL REGISTER (43 FR 11765-6). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before April 21, 1978. Comments were received from Joseph Barrows, Ph.G., Consultant, of Valley Stream, N.Y., on behalf of his client, Rexar Pharmacal Corp. of Valley Stream, N.Y., from the National Association of Pharmaceutical Manufacturers (NAPM) of New York, N.Y., from the Obesity and Nutrition Council of New York, N.Y., and from the Delco Chemical Company of Mt. Vernon, N.Y.

Relative to amphetamine, the NAPM, the Obesity and Nutrition Council and Delco Chemical Co. commented that the legitimate market demand and medical need for amphetamine is greater than the supply. In addition, the NAPM and the Obesity and Nutrition Council questioned the basis for the proposed reduction.

Also relative to amphetamine, Mr. Barrows commented that the proposed quota was insufficient to meet the legitimate medical needs for this substance and restricted competition among amphetamine dosage from manufacturers. Based on these comments, Mr. Barrows requested a hearing on behalf of his client, Rexar Pharmacal Corp.

DEA is reviewing the comments and request for hearing submitted by Mr. Barrows. To provide for the on-going manufacture of amphetamine in order to meet the legitimate medical needs for this substance, an interim aggregate production quota is established.

Therefore, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the interim aggregate production quota for amphetamine and the revised aggregate production quotas for the other below-listed controlled substances, expressed in grams of anhydrous acid or base be established as follows:

Basic class	Interim 1978 aggregate production quota
Amphetamine	3,020,000

Basic class	Revised 1978 aggregate production quota
Aphaprodine	77,000
Amobarbital	8,348,000
Anileridine	234,000
Codeine (for sale)	58,089,000
Codeine (for conversion)	1,518,000
Desoxyephedrine(1,765,000 g for the production of levodesoxyephedrine for use in noncontrolled, nonprescription product and 456,000 g for the production of methamphetamine	2,221,000
Diphenaxylate	1,495,000
Ethylmorphine	23,000
Hydrocodone	794,000
Hydromorphone	103,000
Levorphanol	8,400
Meperidine	10,912,000
Methadone	1,581,000
Methadone Intermediate (4-cyano-2-dimethylamino-4, 4-diphenylbutane)	2,153,000
Methaqualone	16,115,000
Methylphenidate	1,848,,000
Mixed Alkaloids of Opium	39,000
Morphine (for sale)	694,000
Morphine (for conversion)	54,869,000
Opium (for tinctures, extracts, et cetera, expressed in terms of USP powdered opium in morphine content)	2,435,000
Oxycodone (for sale)	1,895,000
Oxycodone (for conversion)	14,000
Pentobarbital	14,651,000
Phermetrazine	5,073,000
Secobarbital	6,809,000
Thebaine (for sale)	2,714,000
Thebaine (for conversion)	1,255,000

This order is effective May 12, 1978.

Dated: May 5, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-12945 Filed 5-11-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 8th day of May 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 5, 1978

Name of applicant and location of enterprise	Principal product or activity
Darby Grain Elevator, Inc., Conecuh County, Ala.	Grain handling facility.
F&W Farm Service, Inc., Thomasville, Ga.	Fertilizer mixing plant.
Bush Oil Co., Americus, Ga.	Bulk plant and distribution and sales of gasoline.
Doxey Plywood Corp., Aberdeen, N.C.	Manufacture of vinyl laminated hardwood furniture and hardwood plywood furniture parts.
Koy-Yan, Inc., London, Ohio.	Athletic facility and conditioning center.
Northern Sash & Door Co. (Tenant of Marenisco Township), Marenisco, Mich.	Manufacture of millwork.
Kelley Development Co., Wynne, Ark.	Shopping center.
Cox Cotton Co., Inc., Reyno, Ark.	Cotton gin and grain elevator.
Trinity Basin Wood Products, Shepherd, Tex.	Manufacture of wooden pallets.
Energy Systems Co., El Dorado, Ark.	Rail car cleaning facility.
Arotoho Irrigation Co., Cortex, Colo.	Sales and installation of all irrigation equipment.
Dwayne P. and Carol D. Herman, Estes Park, Colo.	Retail shopping complex.
Valley Dehydrating Co., Inc., Sterling, Colo.	Manufacture and sale of various alfalfa products.
CMI, Inc., Minturn, Colo	Manufacture, assembly, administration, research and development of electronics equipment.
Mid-Continent Engineering Corp., Broomfield, Colo.	Manufacture and distribution of pumps and equipment.
Cochise Canning Company, Inc., McNeal, Ariz.	Processing and canning of green chile products.
Humboldt Sand & Rock, Inc., Humboldt, Ariz.	Ready-mix concrete sales and service of sand and gravel.
Lowe Aquafarm Inc., Kahuku, Hawaii.	Growing, processing and marketing of Malaysian prawns.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 5, 1978—Continued

Name of applicant and location of enterprise	Principal product or activity
Grande Machinery, Inc., Casa Grande & Gila Bend, Ariz.	Farm equipment retail dealership.

[FR Doc. 78-12928 Filed 5-11-78; 8:45 am]

[4510-29]

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposed Alternative Method of Compliance for the Sponge Rubber Products Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed alternative method of compliance.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 (the Act) for the Sponge Rubber Products Pension Plan (the Plan). The proposed alternative method of compliance, if granted, would affect participants and beneficiaries of the Plan and the trustee of the Plan.

DATE: Written comments must be received by the Department on or before June 6, 1978.

ADDRESSES: All written comments (six copies) should be submitted to: Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, Washington, D.C. 20216, Attention: Sponge Rubber Alternative. The petition for an alternative method of compliance and all comments received will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Charles Edelstein of the Department, 202-523-8444. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed alternative method of compliance with certain reporting and disclosure requirements of the Act for the Plan. The proposed alternative method of compliance was requested in a petition filed by William M. Cullina, the trustee of the Plan acting in his capacity as the administrator of the Plan, pursuant to section 110(a) of the Act.

SUMMARY OF FACTS AND REPRESENTATIONS

The petition contains facts and representations with regard to the proposed alternative method of compliance which are summarized below. Interested persons are referred to the petition on file with the Department for the complete representations of the petitioner.

The Plan was initially adopted in 1943 by the Sponge Rubber Products Co. (the company). In 1954, the company was acquired by the B. F. Goodrich Co. (Goodrich) which continued the Plan. In 1974, Goodrich sold its Sponge Rubber Products Division (the division) to the Grand Sheet Metal Products. Co. (Grand) which assumed responsibility for the continuation of the Plan. The Plan provided benefits for employees at five plants, all in the towns of Shelton and Derby, Conn. During 1974, the business of the Division contracted, resulting in layoffs which substantially reduced the number of active participants in the Plan. On March 1, 1975, one of the division plants was destroyed by explosion and fire resulting in the layoff of a large number of plan participants employed at that location. On May 1, 1975, Grand filed a voluntary petition under chapter XI of the Bankruptcy Act in the U.S. District Court for the Northern District of Illinois. On or about July 21, 1975, substantially all the remaining employees of the division were laid off.

The predecessor trustees of the Plan announced a suspension of further lump-sum distributions of plan benefits until the termination status of the Plan was reviewed by the Pension Benefit Guaranty Corp. (PBGC). On September 23, 1975, counsel for the Plan requested the PBGC to seek to have a trustee appointed to take control of the Plan. PBGC declined, but suggested that the Plan Administrator might have a trustee appointed under the authority of section 4041(g) of the Act. On November 14, 1975, a petition was filed with the U.S. District Court for the District of Connecticut seeking the appointment of William M. Cullina as trustee. The petition was approved on November 25, 1975, and the court granted Mr. Cullina those powers and duties set forth in section 4042(d) of the Act which includes the power to do any act authorized by the Plan or title IV of the Act to be done by the Plan administrator. The assets of the Plan have been and are being held and invested by the Fidelity Mutual Insurance Co. of Philadelphia, Pa.

The trustee petitioned the district court for its approval of the termination of the Plan effective April 30, 1976. An order terminating the Plan effective April 30, 1976, was entered by the court on July 13, 1976. Prior to the

court hearing on the petition for termination, PBGC issued a determination of sufficiency respecting the Plan.

Plan participants have been fully informed of the trustees actions. Pursuant to court order, formal notice of the trustee's appointment was given shortly after his appointment. Subsequently, the trustee requested each participant by mail to verify the amount of his vested benefits in the Plan as disclosed by the records available to the trustee and requested that the participant notify the trustee in the event of any differences. The trustee's petition for authority to terminate the Plan contained schedules setting forth the benefits to which each of the more than 850 participants were entitled and legal notice of the filing of that petition was, pursuant to court order, mailed to each participant. Copies of the petition were made available upon request to any participant.

On September 15, 1976, $7,550,000, more than 90 percent of the Plan's assets, was distributed to participants pursuant to an order of the U.S. District Court. The September 15, 1976 payments represented a full distribution of all vested benefits.

The remaining assets of the Plan consist of approximately $600,000. After payment of administrative expenses and claims for disability benefits in excess of vested benefits, the balance of the assets will be distributed among the participants. On September 14, 1977, a hearing was held on the trustee's Petition for Allowance of Account and Final Distribution and Approval of Compromise of Disputed Claim. Notice of the hearing was provided to all participants and other persons claiming an interest under the Plan.

On March 22, 1978, judgment was entered which, among other things, allowed the trustee's account and directed the distribution of any remaining assets within 90 days. The distribution ordered by the Court will be pursuant to a formula devised in cooperation with the PBGC. All fees and expenses incurred by the Plan and approved by the Court require the approval of the PBGC pursuant to section 4042(h) of the Act.

The trustee asserts that the supervision by the PBGC and the U.S. District Court provides safeguards to permit the trustee to seek an alternative method of compliance with certain reporting and disclosure requirements of the Act. In addition, the trustee asserts compliance with certain reporting and disclosure requirements of the Act would cause an unreasonable administrative burden to the Plan, increase the costs to the Plan, and not be in the interests of Plan participants because the increased cost would reduce the amounts otherwise available for distribution.

Further, all notices of hearings regarding any distribution of Plan assets informed Plan participants that any authorization by the Court would be a final and binding determination, discharging the trustee and fixing the participants' rights to the Plan assets and finally determining all other matters involved at the hearing and that, therefore, if participants had an objection to any of the matters to be heard, they should appear and make their objection known to the Court.

Accordingly, the trustee requests that he not be required to comply with the following reporting and disclosure requirements of the Act:

1. Preparation and filing of Forms 5500, Schedules A and B thereto and certified financial statements relating thereto, for the Plan years ending October 14, 1976, and October 14, 1977, and the Plan year beginning October 15, 1977, and ending on the date of final distribution of Plan assets;

2. Engaging an independent qualified public accountant to examine the books and records of the Plan and render an opinion thereon;

3. Engaging an enrolled actuary to review the operation of the Plan and render an opinion thereon;

4. Preparation and filing of any terminal report following complete distribution of the assets of the Plan;

5. Preparation and distribution of summary annual reports to Plan participants, and

6. Preparation and distribution of summary plan discriptions to Plan participants and the Secretary of Labor.

In lieu of complying with the above requirements of the Act, the trustee will provide the Secretary of Labor and Plan participants as of October 15, 1974, copies of all his accountings as trustee from the date of his appointment through the final distribution of the Plan assets. Participants as of October 15, 1974, will be notified because all prior notices involving the Plan were sent to persons who were participants of the Plan as of October 15, 1974.

Notice to Interested Persons

Not later than May 22, 1978, the trustee will furnish to each participant (as of October 15, 1974) a notice that a petition has been filed for an alternative method of compliance with the reporting and disclosure requirements of the Act. Such notice shall contain a copy of the proposed alternative method of compliance as published in the Federal Register and shall include the following statement:

Any interested person, including any participant in the Sponge Rubber Products Pension Plan and any employer of the Sponge Rubber Products Division of the Grand Sheet Metal Products Co. may present his or her view on the proposed alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 for the Sponge Rubber Products Pension Plan on or before June 6, 1978, by writing to Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C—4526, Department of Labor, Washington, D.C. 20216, Attention: Sponge Rubber Alternative.

General Information

Before an alternative method of compliance with the reporting and disclosure requirements may be prescribed under section 110 of the Act, the Department must determine that the use of such alternative method is consistent with the purpose of Title I of the Act and that it provides adequate disclosure to the participants in the plan and adequate reporting in the Department, that the application of the reporting and disclosure requirements of the Act would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or the type of plan involved, and that the application of the reporting and disclosure requirements of the Act would be adverse to the interests of plan participants in the aggregate.

Alternative Method of Compliance

Based upon the facts and representations set forth in the petition, the Department is considering granting the requested alternative method of compliance under the authority of section 110 of the Act. If an alternative method of compliance is granted the trustee of the Plan is not required to comply with the reporting and disclosure requirements set forth in Section 1 below, provided that the conditions set forth in section 2 are met:

Section 1.—*Alternative Method of Compliance:*

(a) Preparation and filing of forms 5500, schedules A and B thereto and certified financial statements relating thereto, for the Plan years ending October 14, 1976, and October 14, 1977, and the Plan year beginning October 15, 1977, and ending on the date of final distribution of Plan assets;

(b) Engaging an independent qualified public accountant to examine the books and records of the Plan and render an opinion thereon;

(c) Engaging an enrolled actuary to review the operation of the Plan and render an opinion thereon;

(d) Preparation and filing of any terminal report following complete distribution of the assets of the Plan;

(e) Preparation and distribution of summary annual reports to Plan participants; and

(f) Preparation and distribution of summary plan descriptions to Plan

participants and the Secretary of Labor.

SEC. 2.—*Conditions to the Granting of an Alternative Method of Compliance:*

(a) The remaining Plan assets are distributed in accordance with a formula approved by the PBGC and the United States District Court.

(b) Not later than 30 days after the trustee's final accounting has been approved by the United States District Court, the trustee shall mail by first class mail to each Plan participant and the Secretary of Labor, copies of all accountings (from November 25, 1975) filed with and approved by the United States District Court. For purposes of this subsection (b), the term "participant" means every person who was a participant of the Plan on or after October 15, 1974.

(c) The accountings required to be furnished to participants in (b) above shall be accompanied by a statement signed by the trustee explaining the basis on which the surplus assets of the Plan were allocated among the Plan participants.

Signed at Washington, D.C., this 10th day of May 1978.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 78-13098 Filed 5-11-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-13]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Co., Tokyo, Japan, a limited, exclusive patent license in Japan for the three NASA-owned inventions covered by the Japanese counterparts of (1) U.S. Application Serial No. 850,507 for "Improvements in Microelectrophoretic Apparatus and Process", filed by NASA on November 10, 1977; (2) U.S. Application Serial No. 830,382 for "Stainless Steel Panel for Selective Absorption of Solar Energy", filed by NASA on September 2, 1977; and (3) U.S. Application Serial No. 829, 390 for "Aluminum or Copper Substrate Panel for Selective Absorption of Solar Energy and Method", filed by NASA on August 31, 1977. Copies of the above U.S. Patent Applications can be purchased from the National Technical Information Services, Springfield, Va. 22161, at a cost of $3.75 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP-4, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: May 8, 1978.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc. 78-12954 Filed 5-11-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

PRIVACY ACT OF 1974

Systems of Records

Pursuant to 5 U.S.C. 552a(e)(4). The National Commission on Neighborhoods hereby publishes the systems of records as currently maintained by the agency. Any person interested in commenting on the information contained in this notice may do so by submitting comments in writing to the Executive Director-designate, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006. Comments must be submitted on or before June 12, 1978. This will become effective June 12, 1978, unless the Commission publishes notice to the contrary.

Dated at Washington, D.C. on May 8, 1978.

FRANCES PHIPPS,
Deputy Director.

NCN-1

System name:

General Financial Records—NCN

System location:

General Services Administration, Central Office; Copies held by the NCN. (GSA holds records for the NCN under contract.)

Categories of individuals covered by the system:

Committee employees and members.

Categories of records in the system:

SF1038. Application and account for advance of funds; vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the NCN who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally; also Pub. L. 95-24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See appendix following this notice. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and tape.

Retrievability:

Manual and automated by name.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

NCN Executive Assistant, Suite 350, 2000 K Street NW., Washington, D.C. 20006 .

Notification procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record access procedures:

Commission members, past or present, or employees, past or present, who desire access to their individual records in the custody of the NCN or GSA should contact the Commission's Executive Director in writing. See Commission access regulations in 24 CFR 4000.

Contesting record procedures:

Commission members, past or present, or employees, past or present, who desire to contest record procedures in the custody of the NCN or GSA should contact the Commission's Executive Director in writing. See Commission record contest regulations in 24 CFR 4000.

Record source categories:

The subject individual: the Commission.

NCN-2

System name:

Payroll Records—National Commission on Neighborhoods.

System location:

General Services Administration. Region 3 Office: copies held by the NCN (GSA holds records for the National Commission on Neighborhoods under contract.)

Categories of records in the system:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefit records requests for deductions; tax forms, W-2 forms, overtime requests, leave data; retirement records. Records are used by the NCN and GSA employees to maintain adequate payroll information for NCN employees, and otherwise by the NCN and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C. generally. Also, Pub. L. 95-24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2 Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director.

In the absence of a withholding agreement, the Social Security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security number, in accordance with Section 7 of the Privacy Act, Pub. L. 93-579.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability:

Social Security number.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Executive Assistant, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

Notification procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record access procedures:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Contesting record procedures:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record source categories:

The subject individual; the Commission.

NCN-3

System name:

Correspondence records—National Commission on Neighborhoods.

System location:

National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

Categories of records in the system:

All correspondence, attachments, both incoming and outgoing: invitations, requests for information, field hearing information, general letters.

Authority for maintenance of the system:

Pub. L. 95-24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosed to other Federal agencies in furtherance of the Commission's statutory responsibilities. Correspondence is filed to retrieve information and/or to continue correspondence.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and carbons.

Retrievability:

Manual and alphabetically and chronologically for outgoing; alphabatically for incoming.

Safeguards:

Stored in guarded building; released only by authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager and address:

NCN Executive Assistant, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

Notification procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record access procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Contesting record procedures:

Refer to NCN access regulations contained in 24 CFR Part 4000.

APPENDIX

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency,

in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaint examiner, equal opportunity investigator, arbitrator or other authorized official engaged in investigation, or settlement grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

A record from this system of records may be disclosed as a routine use to state and local governments for authorized taxing purposes.

[FR Doc. 78-13025 Filed 5-11-78; 8:45 am]

[1410-03]

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS (CONTU)

MEETING

Change in Location

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19080, May 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2 p.m. Thursday, May 18 and 9:30 a.m. Friday, May 19, 1978.

PREVIOUSLY ANNOUNCED PLACE: Dean's Conference Room, University of Minnesota Law School, 229 19th Avenue South, Minneapolis, Minn.

STATUS: Meeting open to the public.

CHANGES IN THE MEETING: The meetings will be held in New York City, at the McGraw Hill Building, 1221 Avenue of the Americas, New York, N.Y. 10020, Thursday's session will be held in Room 206 and will begin at 2 p.m. Friday's session will be held in the Second Floor Gallery, and will begin at 9:30 a.m.

CONTACT PERSON FOR MORE INFORMATION:

Dolores K. Dougherty, Administrative Officer, 202-557-0996.

ARTHUR J. LEVINE,
Executive Director, National Commission on New Technological Uses of Copyrighted Works (CONTU).

[FR Doc. 78-13028 Filed 5-11-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Federal State Partnership Advisory Panel to the National Council on the Arts which is scheduled for May 8, 1978, from 9 a.m. to 5 p.m.; May 9, 1978, from 9 a.m. to 5 p.m.; and May 10, 1978, from 9 a.m. to 5 p.m., and was reported in the Volume 43, No. 77 issue of the FEDERAL REGISTER (page 16819) is amended in the following way:

A portion of this meeting will be open to the public on May 8, 1978, from 11 a.m. to 5 p.m.; May 9, 1978, from 9 a.m. to 5 p.m.; and May 10, 1978, from 9 a.m. to 5 p.m. The topic for discussion will be policy.

The remaining sessions of this meeting on May 8, 1978, from 9 a.m. to 11 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: May 5, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-12966 Filed 5-11-78; 8:45 am]

[7537-01]

NATIONAL COUNCIL ON THE ARTS

Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts which will be held May 12, 1978, from 9 a.m. to 5:30 p.m.; May 13, 1978, from 10 a.m. to 5:30 p.m.; and May 14, 1978, from 9 a.m. to 1 p.m., and was reported in the Volume 43, No. 81 issue of the FEDERAL REGISTER (page 17875) is amended in the following way:

A portion of the meeting will be open to the public on May 12, 1978, from 9 a.m. to 3:30 p.m.; May 13, 1978, from 10 a.m. to 11:30 a.m., and from 4:15 p.m. to 5:30 p.m.; and May 14, 1978, from 9 a.m. to 1 p.m. The topics of discussion will include: Museum Program Review and Guidelines, Artists-in-Schools Guidelines, and Composer/Librettist Guidelines; reports to the Council; and policy matters.

The remaining sessions of this meeting on May 12, 1978, from 3:30 p.m. to 5:30 p.m.; and May 13, 1978, from 11:30 a.m. to 4:15 p.m., are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: May 5, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-12967 Filed 5-11-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON MEMORY AND COGNITIVE PROCESSES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Memory and Cognitive Processes of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: May 30 and 31, 1978; 9 a.m. to 5 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-1583.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.
Agenda: To review and evaluate research proposals as part of the selection processes for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.
MAY 9, 1978.

[FR Doc. 78-12920 Filed 5-11-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON SENSORY PHYSIOLOGY AND PERCEPTION

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Sensory Physiology and Perception of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: May 30 and 31, 1978. Hours: 9 a.m. to 5 p.m. each day.
Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Sherman L. Guth, Program Director, Sensory Physiology and Perception Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-1624.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Sensory Physiology and Perception.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provision of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.
MAY 9, 1978.

[FR Doc. 78-12921 Filed 5-11-78; 8:45 am]

[7555-01]

STEERING COMMITTEE OF THE NSF ADVISORY COUNCIL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Steering Committee of the NSF Advisory council.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Date: Tuesday, May 30, 1978.
Time: 9 a.m. until 5 p.m.
Type of meeting: Open.
Contact person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550. Telephone: 202-632-4368.
Purpose of steering committee: The purpose of the Steering Committee, composed of members of the NSF Advisory Council, is to assist the Chairperson and Foundation staff in planning Council activity and related matters not requiring the formation of a separate task group.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street NW., Washington, D.C. 20550.
Agenda: To review with cognizant NSF staff the issues being studied by the task groups and other issues of general concern.

M. REBECCA WINKLER,
Committee Management Coordinator.
MAY 9, 1978.

[FR Doc. 78-12922 Filed 5-11-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE DAVIS BESSE NUCLEAR POWER STATION, UNITS 2 AND 3

Meeting Rescheduled

The May 18, 1978 meeting of the ACRS Subcommittee on the Davis Besse Nuclear Power Station, Units 2 and 3, has been rescheduled to be held on June 30, 1978 in Room 1046,1717 H Street NW., Washington, D.C. 20555.

All items pertaining to this meeting remain the same as announced in the FEDERAL REGISTER on May 3, 1978.

Dated: May 10, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-13082 Filed 5-11-78; 8:45 am]

[7590-10]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-26, issued to Consolidated Edison Co. of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility), located in Buchanan, Westchester County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to allow the deletion of certain snubbers and the replacement of some shock suppressors (snubbers) with other (fixed) support systems and to appropriately change the testing requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant

to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment transmitted by letter dated March 30, 1977, as supplemented January 6, 1978 and April 28, 1978, (2) Amendment No. 39 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. 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 Operating Reactors.

Dated at Bethesda, Md., this 5th day of May 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-12936 Filed 5-11-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating licenses

The U.S. nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 61, 61 and 58 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Co. for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, S.C. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications by eliminating reactor trip on loss of a single reactor coolant pump for Oconee Units Nos. 2 and 3.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 16, 1978, (2) Amendments Nos. 61, 61, and 58 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 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 Operating Reactors.

Dated at Bethesda, Md., this 3rd day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-12937 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-510; 50-511]

GULF STATES UTILITIES COMPANY; (BLUE HILLS STATION, UNITS 1 AND 2)

Hearing on Application for Early Site Review

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Gulf States Utilities Co. (the Applicant) for an early review, hearing and partial initial decision on issues of site suitability within the purview of the applicable provisions of 10 CFR Parts 50, 51 and 100 for a proposed site designated as the Blue Hills Station site. The Blue Hills Station site is located in Newton County, Tex., two miles southwest of Toledo Bend Reservoir and nine miles west of the Texas-Louisiana border.

The hearing, which will be scheduled to begin in the vicinity of the proposed site, will be conducted by an Atomic Safety and Licensing Board, which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Mr. Lester Kornblith, Jr., Dr. Linda W. Little and Marshall E. Miller, Chairman.

Pursuant to 10 CFR § 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Pursuant to 10 CFR §§ 2.606 and 2.761a, respectively, the Board will make findings on the issues of site suitability for which early consideration is sought and render a partial decision.

In 1974, the Applicant submitted an application for a construction permit for two pressurized light water reactors. On November 12, 1975, a Notice of Hearing concerning the construction permit was published (40 FR 52768), and a correction to that Notice was published November 20, 1975 (40 FR 54031). The State of Texas submitted a request to participate as an interested state, pursuant to 10 CFR § 2.715(c), in response to the Notice. Subsequently, in January 1976, the Applicant notified the NRC that it wished to change its construction permit application to an early site review. On September 20, 1976, a Notice of Availability of Applicants Environmental Report Relating to an Early Site Review was published (41 FR 40537) and the Staff issued its Early Site Review (NUREG-0131) concerning safety matters in January 1977. On June 9, 1977, the NRC Draft Environmental Statement (NUREG-0276) concerning the Blue Hills site was issued and a Notice of Availability of the DES was published (42 FR 29571). This Notice informed the public of the new Commission rule regarding early site reviews; asked for comments on the DES from interested persons; and advised that a notice of hearing would be published. Also in June 1977, Supplement No. 1 to the Blue Hills Site Review concerning the review of this application by the Advisory Committee on Reactor Safeguards was published. On October 31, 1977, the Applicant submitted an amendment to its application to comply with the new rule which requires proposed findings on issues on which the Applicant seeks a partial initial decision.

As described in detail in Applicant's proposed findings dated October 31, 1977, the Applicant identified the issues of site suitability for which early consideration is sought, including: whether, from both an environmental and safety standpoint, the Blue Hills site is suitable with respect

to geographical and demographical characteristics; terrestrial and acquatic ecology considerations; meteorology considerations; hydrology considerations; water and land use; geology and seismology considerations; regional historic, archaeological, scenic, cultural and natural landmark features; and economic impact considerations.

In the event the Board makes favorable findings on these issues, the partial decision shall remain in effect for a period of five years or, where the Applicant for the construction permit has made timely submittal of the information required to support the application, until the proceeding for a permit to construct a facility on the site identified in the partial decision has been concluded, unless the Commission, Atomic Safety and Licensing Appeal Board, or Atomic Safety and Licensing Board, upon its own initiative or upon motion by a party to the proceeding, finds that there exists significant new information that substantially affects the earlier conclusions and reopens the hearing record on site suitability issues.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR § 2.4(n), the Board will determine without conducting a de novo evaluation of the application whether the application and the record of the proceeding contain sufficient information and whether the review conducted by the Commission's Staff pursuant to the National Environmental Policy Act of 1969 (NEPA) has been adequate.

With respect to the Commission's responsibilities under NEPA and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with § 51.52(c) of 10 CFR Part 51:

(1) Determine whether the requirements of § 102(2)(A), (C) and (E) of NEPA and Part 51 as far as applicable have been complied with in this proceeding;

(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding; and

(3) Determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives, the suitability of the site with respect to the factors reviewed, and whether the partial Initial Decision should be issued, denied or appropriately conditioned to protect environmental values.

On or before June 12, 1978, any person whose interest may be affected by the proceedings, and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene in accordance with the provisions of 10 CFR § 2.714, as amended. As required by 10 CFR § 2.714, as amended, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the following factors:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding;

(2) The nature and extent of the petitioner's property, financial or other interest in the proceeding; and

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest, and the specific aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above. Not later than fifteen (15) days prior to a special prehearing conference held pursuant to 10 CFR § 2.751a, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which he seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by June 12, 1978. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Board that the petition should be granted based upon a balancing of the factors set out in 10 CFR § 2.714(a)(1)(i-v), as amended, in addition to the matters specified in 10 CFR § 2.714(d).

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705 must be filed by the Applicant by June 1, 1978.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Conner, Moore and Corber, Attention: Mr. Troy B. Conner, Jr., 1747 Pennsylvania Avenue NW., Washington, D.C. 20006, attorney for the Applicant.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within ninety (90) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR § 2.751a, as amended.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR § 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715, as amended. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of site suitability. Limited appearances will be permitted at any session of the hearing or any prehearing conference at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by July 11, 1978. The presiding Atomic Safety and Licensing Board may make further provisions with respect to limited appearances subsequently during the course of this proceeding.

For further details, see the application for an early site review consisting of the Environmental Report and the Preliminary Safety Analysis Report, which, along with any amendments or

supplements thereto, and the Draft Environmental Statement and Early Site Review Report, are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of these documents are also available at the Newton County Library, Newton, Tex. 77034. When available, the Final Site Environmental Statement, the transcripts of the prehearing conferences and of the hearing and other relevant documents will also be available at the above locations. Copies of the Office of Nuclear Reactor Regulation's Final Site Environmental Statement, when available, may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md. this 3rd day of May 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-12934 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Co., Jersey Central Power and Light Co. and Pennsylvania Electric Co. (the licensees), which revised the Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to reflect plant operating limitations for the first 130 effective full power days of operation in Cycle 4.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 9, 1978, as supplemented April 3, 10, 17, and 20, 1978, (2) Amendment No. 39 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. 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 Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-12938 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL. (THREE MILE ISLAND NUCLEAR STATION UNIT NO. 1)

Exemption

I.

Metropolitan Edison Co., Jersey Central Power and Light Co., and the Pennsylvania Electric Co. (the licensees), are the holders of Facility Operating License No. DPR-50 which authorizes the operation of the nuclear power reactor known as Three Mile Island Nuclear Station, Unit No. 1 (TMI-1 or the facility), at steady reactor power levels not in excess of 2535 megawatts thermal (rated power). The facility consists of a Babcock & Wilcox Co. (B&W) designed pressurized water reactor (PWR) located at the licensees' site in Dauphin County, Pa.

II.

In accordance with the requirements of the Commission's Emergency Core Cooling System (ECCS) Acceptance Criteria, 10 CFR 50.46, Metropolitan Edison Co. (Met Ed) submitted on July 9, 1975, as supplemented August 8, 1975, an ECCS evaluation for the facility. The ECCS performance submitted by Met Ed was based upon an ECCS Evaluation Model developed by the B&W, the designer of the Nuclear Steam Supply System for this facility. The B&W ECCS Evaluation Model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46, and Appendix K. The evaluation indicated that with the limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On April 12, 1978, B&W informed the NRC that it had determined that in the event of a small break Loss of Coolant Accident (LOCA) on the discharge side of a reactor coolant pump, high pressure injection (HPI) flow to the core could be reduced somewhat. Subsequent calculations indicated that in such a case the calculated peak clad temperature might exceed 2200F.

Previous small break analyses for B&W 177 fuel assembly (FA) lowered loop plants had identified the limiting small break to be in the suction line of the reactor coolant pump. Recent analyses have shown that the discharge line break is more limiting than the suction line break.

TMI-1 has an ECCS configuration which consists of two high pressure injection (HPI) trains. Each train has an HPI pump and the train injects into two of the four reactor coolant system (RCS) cold legs on the discharge side of the RCS pump. (There is also a third HPI pump installed.) The two parallel HPI trains are connected but are kept isolated by manual valves (known as the cross-over valves) that are normally closed. Upon receiving a safety injection signal the HPI pumps are started and valves in the four injection lines are opened. Assuming loss of offsite power and the worst single failure (failure of diesel to start) only one HPI pump would be available and two of the four injection valves would fail to open.

If a small break is postulated to occur in the RCS piping between the RCS pump discharge and the reactor vessel, the high pressure injection flow injected into this line (about half of the output of one high pressure pump) could flow out the break. Therefore, for the worst combination of break location and single failure, only one-half of the flow rate of a single high pressure ECCS pump would contribute to maintaining the coolant inventory in the reactor vessel. This situation had not been previously analyzed and B&W had indicated that the limits specified in 10 CFR 50.46 may be exceeded.

B&W has stated that they have analyzed a spectrum of small breaks in the pump discharge line and have de-

termined that to meet the limits of 10 CFR 50.46, operator action is required to open the two manually operated crossover valves and to manually open the two motor driven isolation valves which had failed to open and align all four isolation valves. This would allow the flow from the one HPI pump to feed all four reactor coolant legs. B&W has assumed that 30 percent of the flow would be lost through the break and 70 percent would refill the core. B&W has prepared a summary entitled "Analysis of Small Breaks in the Reactor Coolant Pump Discharge Piping for the B&W Lowered Loop 177 FA Plants", April 24, 1978 (the B&W Summary), which describes the methods used and the results obtained in the above analysis. The analysis models operator action by assuming a step increase in flow to the reactor vessel (with balanced flow in the three intact loops) ten minutes after the LOCA reactor protection system trip signal occurs.

By letter dated April 27, 1978, Met Ed submitted a copy of the B&W Summary for our review. In their submittal Met Ed stated that they had reviewed the B&W Summary and determined that the results were applicable to TMI-1 and that operation of TMI-1 at 100 percent of full power (2535 Mwt) would be in full conformance with 10 CFR 50.46. Recognizing, however, that there was insuffient time available to the NRC staff to fully review the B&W Summary and make a similar determination prior to the scheduled startup of TMI-1 in Cycle 4 (estimated startup date of April 27, 1978), Met Ed requested an exemption from 10 CFR 50.46, until such time as the NRC staff had completed their review. The requested exemption would authorize startup and power operation of TMI-1 up to 100 percent of full power (2535 Mwt).

In their submittal of April 27, 1978, Met Ed also stated that they had modified certain plant procedures to provide the necessary operator actions on a time scale consistent with that assumed in the analysis, and that they had conducted a drill to verify that the assumed operator response time was achievable. Met Ed also committed to submit as soon as possible a request for amendment of the TMI-1 Technical Specifications as appropriate to reflect adoption of these procedures, and committed to submit a proposal for a permanent solution to this problem by July 24, 1978.

We have completed a preliminary review of the B&W Summary. In the Summary, B&W states that a .15 ft.^{2} discharge line break, with operator actions consistent with that modeled in the analysis, is the most limiting case. To arrive at this conclusion, B&W has performed analyses at break sizes of 0.3, 0.2, 0.15, 0.1, and 0.04 ft.^{2}. The results, which were obtained using an approved Appendix K model for blowdown, indicate core uncovery for about 500 seconds for the 0.15 ft.^{2} break. For this break size B&W has conservatively calculated the peak clad temperature to be approximately 1760 F; well below the limits of 10 CFR 50.46(b).

Based on review of the B&W Summary, however, we find that the calculations do not clearly support the conclusion that a .15 ft.^{2} discharge line break is the most limiting case. In addition, the Summary does not demonstrate that the assumptions employed in supplying heat inputs to the FOAM portion of the calculations were conservative. We are also reviewing whether use of simplified input in the FOAM calculations satisfies the requirement for calculation using an approved model. Accordingly, we cannot conclude at this time that operation of TMI-1 at 100 percent of licensed power would be fully in conformance with 10 CFR 50.46. On the other hand, for operation of this facility at power levels up to 91 percent of full power (2311 Mwt), ECCS performance calculations for the limiting small break indicate that this break does not result in core uncovering, if appropriate operator action is properly taken (as described above), thus providing a very substantial margin on peak clad temperature below the limits of 10 CFR 50.46(b).

Therefore, until we have had the opportunity to fully assess the B&W calculations, supplemented as required, operation of TMI-1 at 100 percent of licensed power (2535 Mwt) would be technically in nonconformance with the requirements of 50.46 in that revised calculations by B&W applicable to this facility are not yet complete. However, operation of TMI-1 at power levels of up to 2311 Mwt and in accordance with appropriate operating procedures, will assure the the ECCS system will conform to the performance criteria of 50.46. Accordingly, while B&W calculations applicable to this facility are completed to achieve full compliance with 10 CFR 50.46, operation of the facility at power levels up to 2311 Mwt with appropriate operating procedures will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with operation of the facility during the period until the B&W calculations, as supplemented, are completed, there appears to be no public interest consideration favoring undue restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is appropriate. The specific exemption is limited to the period of time necessary to complete computer calculations.

III.

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the State Library of Pennsylvania, Harrisburg, Pa.

(1) The application for exemption dated April 27, 1978, and

(2) This Exemption in the matter of Metropolitan Edison Co., Jersey Central Power and Light Co., and Pennsylvania Electric Co., Three Mile Island Nuclear Station, Unit No. 1

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensees are hereby granted an exemption from the requirements of 10 CFR 50.46(a)(i) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K. This exemption is conditioned as follows:

(1) Metropolitan Edison Co. shall submit supplementary analyses of ECCS cooling performance calculated in accordance with the B&W Evaluation Model, as requested by the Commission, as soon as possible.

(2) Until further authorization by the Commission, the power level shall not exceed 2311 Mwt, and

(3) Until further authorization by the Commission, Metropolitan Edison Co. shall operate the facility in accordance with the procedures described in its letter of April 27, 1978.

Dated at Bethesda, Md., this 27th day of April 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-12939 Filed 5-11-78; 8:45 am]

[7590-01]

MIXED OXIDE FUEL

Memorandum of Decision

On December 23, 1977, the Commission issued an order concerning its proceedings on the Generic Environmental Statement on Mixed Oxide Fuel (GESMO), pending license applications, and other matters related to the reprocessing of spent light water nuclear reactor fuel and the recycling of uranium and plutonium in mixed oxide fuel. 42 FR 65334 (December 30, 1977). In that order the Commission announced its decision—

(1) To terminate the GESMO proceeding;

(2) To terminate the proceedings on pending or future plutonium recycle-related license applications, except for:

(a) Proceedings on licenses for the fabrication or use of small quantities

of mixed oxide fuel for experimental purposes, and

(b) Those portions of proceedings which involve only spent fuel storage, disposal of existing waste, or decontamination or decommissioning of existing plants;

(3) To re-examine the above matters after the completion of the ongoing domestic and international studies of alternative fuel cycles, now expected to take about 2 years;

(4) To publish the draft safeguards supplement to the GESMO document as a staff technical report;

(5) As a consequence of the above decisions, to withdraw the November 1975 policy statement on mixed oxide fuel, 40 FR 53056; and

(6) To reserve for decision, if it arises, the question whether a facility such as the Allied-General Nuclear Services (AGNS) Nuclear Fuels Plant at Barnwell, S.C., may be licensed for experimental and feasibility purposes on a non-commercial basis to investigate processes which support the nation's nonproliferation objectives.

This Memorandum provides the reasons for the December 23 decision.

Background

The use of mixed oxide fuel has been before the Commission and its predecessor, the AEC, for more than a decade. In 1960, Nuclear Fuel Services (NFS) began a small reprocessing plant at West Valley, N.Y., which operated from 1966 through 1971. Construction of the AGNS Plant at Barnwell began in 1970 and parts of the plant are now essentially complete. AGNS' application for an operating license is currently before the Commission. In 1973, Westinghouse Electric Corp. (Westinghouse) requested a construction authorization letter for a mixed oxide fuel fabrication plant near Anderson, S.C. Finally, Exxon Nuclear Company, Inc. (Exxon) is currently seeking permission to construct a reprocessing plant at Oak Ridge, Tenn.

The health, safety, and environmental impacts of the wide-scale use of mixed oxide fuel were evaluated in the draft Generic Environmental Statement on Mixed Oxide Fuel, published in August, 1974. The draft GESMO prompted many public comments, including a January, 1975 letter from the President's Council on Environmental Quality which stressed the need to consider the safeguards aspects of wide-scale plutonium recycle. In May, 1975, the Commission announced its provisional intention to supplement GESMO with an analysis of safeguards and to limit interim licensing of recycle-related activities to experimental purposes. 40 FR 20142 (May 8, 1975). Over 200 public comments were received in response. In November, 1975, the Commission published a policy statement which announced that safeguards alternatives would be a part of the GESMO decision, provided for hearings on the GESMO documents, and stated criteria under which interim licensing of non-experimental recycle-related activities would be considered. 40 FR 53056 (November 14, 1975), corrected 40 FR 59497 (December 24, 1975). The United States Court of Appeals for the Second Circuit affirmed the Commission's hearing procedures but held that interim licensing of recycle-related activities on a commercial scale violated the National Environmental Policy Act (NEPA). *Natural Resources Defense Council, Inc.* v. *Nuclear Regulatory Commission*, 539 F.2d 824 (1976), vacated and remanded to determine mootness, 434 U.S. 1030 (January 16, 1978).

The final impact statement on health, safety, and the environment was published in August, 1976 and associated public hearings began that November. The hearings progressed through questioning of the NRC staff on its testimony and the filing of written testimony by all participants and proposed questions on that testimony.

Congress and other parts of the Federal Government, members of the public, and experts in the national security field have continued to express concerns related to the nuclear weapons proliferation risks of plutonium recycle technology as it is presently conceived. That technology produces separated plutonium, which can be used in the production of nucelar explosives. The concern is basically that the international spread of plutonium recycle technology for commercial nuclear power production creates a risk that non-nuclear weapons states might turn plutonium from the commercial fuel cycle to the production of nuclear explosives. See generally Senate Committee on Government Operations, 94th Cong., 1st Sess., Peaceful Nuclear Exports and Weapons Proliferation—A Compendium (Comm. Print 1975). Moreover, a decision by the United States to proceed with commercial plutonium recycle domestically would undermine U.S. efforts to restrain premature international resort to plutonium. This risk led the Commission in late summer 1976 to direct its staff to begin an analysis for GESMO of international proliferation risks and safeguards.

On October 28, 1976, President Ford discussed these risks in his Statement on Nuclear Policy, and stated that the nation "should pursue reprocessing and recycling in the future only if they are found to be consistent with our international [non-proliferation] objectives" (p. 4).

President Carter expressed his concern over the proliferation risks of plutonium recycle and the potential availability of other weapons grade materials in the nuclear fuel cycle in his April 7, 1977, Statement on Nuclear Power Policy. As part of his response to these risks, the President stated that the Administration's policy would be to defer indefinitely domestic plutonium recycle and to initiate a multinational evaluation of alternative fuel cycles in order to promote the Government's international non-proliferation goals. The GESMO hearings wer indefinitely postponed by the GESMO Hearing Board and on May 3 the Commission announced that it intended to reassess "the future course and scope of GESMO, the review of recycle-related license applications, and the matter of interim licensing." 42 FR 22964 (May 5, 1977). Public comments were received in June.

On May 5, Marcus Rowden, then Chairman of the Commission, wrote the President requesting his views on these matters. Stuart Eizenstat, Assistant to the President for Domestic Affairs and Policy, responded for President Carter on October 4. The letter (reprinted at 42 FR 57186 (November 1, 1977)) states that "the President believes that his non-proliferation initiatives would be assisted both domestically and internationally if the Commission were to terminate the GESMO proceedings," "terminat[e] * * * staff reviews and hearings relating to recycle activities, * * * den[y] * * * interim licensing of fuel cycle facilities, den[y] * * * interim licensing for use of mixed oxide fuel in reactors, except in small quantities for experimental purposes," and publish the staff's safeguards supplement.

The Commission sought public comment on the President's views and on several specific alternative courses of action. 42 FR 57185 (November 1, 1977). Over forty comments were received from public interest groups, industry, states, utilities, individuals, and the GESMO Hearing Board. The major issues raised in these comments and those received in June are addressed below.

In light of these events and after consideration of all the comments received, the Commission issued its December 23 order, based on the reasons which follow.

The Administration's Policy and Its Reception in Congress

The proliferation risk arising from the availability of separated plutonium in the commercial nuclear fuel cycle is an important problem for United States foreign policy. In his constitutional role as the chief architect of foreign policy, the President adopted a policy of deferring implementation of plutonium fuel cycles in the United States, and has begun important international initiatives and negotiations seeking a re-evaluation of

plutonium recycle abroad and an examination of alternative fuel cycles which offer greater resistance to proliferation. See the President's April 7 Statement.[1] The Eizenstat letter explicitly linked the Commission's domestic recycle/related proceedings to the President's foreign policy goals and stated the President's view that U.S. international non-proliferation initiatives would be assisted if the Commission were to terminate its proceedings. In particular, the letter stated that continuation of "staff reviews and hearings relating to recycle activities" "could lead other nations to question the United States commitment to deter commercial reprocessing and plutonium recycle."[2]

The basis for the President's request is evident. Under most agreements for cooperation between the United States and recipient nations, the United States possesses the right to approve any reprocessing of U.S.-supplied fuel or any fuel irradiated in a U.S.-supplied reactor. See, e.g., Agreement for Cooperation Concerning Civil Uses of Atomic Energy, May 10, 1974, United States-Sweden, art. II, para. C, T.I.A.S. No. 7854, amending id., July 28, 1966, T.I.A.S. No. 6076. section 123(a)(7) of the Atomic Energy Act, recently added by section 401 of the Nuclear Non-Proliferation Act of 1978, Pub. L. No. 95-242, 92 Stat. 120,[3] requires such a right of prior approval in all future agreements for cooperation, and section 404 of the Nuclear Non-Proliferation Act mandates a program of renegotiation to bring current agreements into conformity with the new statute. Moreover, a substantial proportion of enriched uranium fuel which has been irradiated to date in reactors abroad is of U.S. origin because, until recently, no other nation has had a substantial commercial uranium enrichment capacity. The United States thus asserts the right under its cooperative agreements to deny approval for reprocessing of most spent fuel currently held by U.S. nuclear trading partners. However, if the United States were to deny other nations the right to reprocess while continuing to pursue commercial reprocessing at home, it would undermine the credibility of our concern about the use of plutonium and our international initiatives toward nonproliferation.

Although the GESMO proceeding and the individual recycle-related license proceedings concern domestic activities, it is clearly appropriate for us to consider the foreign policy matters dscussed above in deciding to terminate the proceedings. Congress has determined the common defense and security to be an essential element which the Commission must consider in all the domestic licensing decisions affected by this decision. Atomic Energy Act §§ 53(b), 57(c)(2), 103(b)(3), (d), 104(d), 161(b), (i)(2), 182(a). Each of the individual license applications was considered under one or more of these sections. Our decision concerning the GESMO proceeding must be made in light of this statutory consideration.[4]

The President's request is also due substantial deference. It has been settled that regulatory agencies such as this Commission are independent of executive control. *Humphrey's Executor* v. *United States*, 295 U.S. 602, 628 (1935); *Weiner* v. *United States*, 357 U.S. 349 (1958). But it is also well established that the President is the national spokesman in the area of foreign policy. See *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952); *Chicago and Southern Air Lines Co.* v. *Waterman S.S. Corp.*, 333 U.S. 103 (1948); see also *New York Times Co.* v. *United States*, 403, U.S. 713 (1971). Thus while the Commission is not compelled to adhere to the President's views, it has accorded due regard to Executive Branch views in matters affecting United States foreign policy in the absence of a clear statutory mandate to the contrary.[5]

In addition, it is significant that Congress as a body has not taken any action disagreeing with the President's position on plutonium recycle in light water reactors.[6] Over a year has passed since the President made the deferral of plutonium recycle a matter of national policy and no substantial Congressional opposition has appeared. Indeed, the Congress has in several instances supported the actions the President has taken to implement the Administration's policy. The Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238, 92 Stat. 47,[7] provides $13 million for various activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies and the nation's non-proliferation objectives, but "none of the authorized funds may be used for operations of the plant to process spent fuel from reactors."[8] Sections 101(20), 106.[9] Congress has

[1] This position has been further developed by U.S. foreign policy spokesmen in international forums. See Statement by Joseph S. Nye, Jr., Deputy to the Under Secretary of State for Security Assistance, Science and Technology at the International Conference on Nuclear Power and its Fuel Cycle, Salzburg, Austria (May 2, 1977); Address of Joseph S. Nye, Jr. before the Ebert Conference on Problems of Nuclear Energy Supply, Bonn, Germany (October 3, 1977).

[2] President Ford's October 28, 1976 Statement on Nuclear Policy also focused on the proliferation risks of separated plutonium. It announced the President's conclusion that "the reprocessing and recycling of plutonium should not proceed unless there is sound reason to conclude that the world community can effectively overcome the associated risks of proliferation" (p. 4). To implement this decision it announced, inter alia, accelerated international initiatives "to control the spread of plutonium and technologies for separating plutonium" (p. 4), the need for the U.S. to "undertake a program to evaluate reprocessing in support of" these international policies (p. 6), and that the nation's "domestic policies must be changed to conform to [the President's] decision on deferral of the commercialization of chemical reprocessing * * * which results in the separation of plutoium" (p. 5). The statement also suggested that the GESMO studies should continue (p. 12).

[3] This statute was pending at the time of our December 23 decision as H.R. 8638 and S. 897, 95th Cong., 1st Sess. (1977). The Commission has relied before on the policy expressed in it in passing on export matters. See *Ten Applications for Low Enriched Uranium Exports to Euratom Member Nations*, CLI-77-24, 6 NRC 525 (1977).

[4] We do not find at this time that issuance of any of the licenses would be inimical to the common defense and security. As is discussed in detail below, we are not required in these circumstances to make any such finding.

[5] This has been formally recognized in the Commission's recent export licensing decisions:

"The Federal judiciary has often expressed the view that expressions of the Executive Branch on matters affecting the conduct of United States foreign policy are entitled to great weight in evaluating the claims of litigants. The Supreme Court stated in *Republic of Mexico* v. *Hoffman*, 324 U.S. 30, 35 (1944) "* * * it is a guiding principle * * * that the courts should not so act as to embarrass the executive arm in its conduct of foreign affairs." In like measure here, the Commission must pay due regard to the potential damage to the conduct of foreign relations which the Department of State believes could result from delaying action in the instant license application."

Babcock & Wilcox (Application for Facility Export License) 5 NRC 1332, 1349 (1977); see *id.* at 1344; *Westinghouse Electric Corporation* (Application for Export of Reactor to Associacion Nuclear ASCO II, Barcelona, Spain), 3 NRC 739, 755-756 (1976).

[6] While Congress has strongly disagreed with the Administration's proposal to discontinue the Clinch River Breeder Reactor project, see note 7 infra, that debate has not extended to the deferral of recycle for light water reactors.

[7] At the time of our December 23 decision, an act of the same name and identical in the relevant provisions had been passed by Congress and vetoed by President Carter because of its provisions funding the Clinch River Breeder Reactor. S. 1811, 95th Cong., 1st Sess. §§ 101(20), 107 (1977); Veto Message from the President, S. Doc. No. 95-73, 95th Cong., 1st Sess. (November 5, 1977). Though vetoed, it indicated Congressional intentions at the time.

[8] The conferees on the previous vetoed version of the Act, see note 7 supra, also indicated their opinion that "the Barnwell facility should be used in such a way as to not to limit the potential for eventual use as a reprocessing plant." H.R. Rep. No. 714, 95th Cong., 1st Sess. 86 (1977).

[9] See also debates on NRC Authorization Act of 1978, S. 1131, 123 Cong. Rec. S8592 (daily ed. May 25, 1977) (remarks of Senator

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also explicitly supported the President's alternative fuel cycle studies in section 105 of the Nuclear Non-proliferation Act of 1978:

> The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear technology * * *[10]

In addition, Congress has strongly supported the non-proliferation goals of the Administration's policy. Section 2 of the Nuclear Non-Proliferation Act of 1978 states the following policy:

> The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to—
>
> (a) actively pursue through international initiatives * * * the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent proliferation * * *.

Moreover, section 3 states that

> It is the purpose of this Act to promote the policies set forth above by—
>
> (a) establishing a more effective framework for international cooperation * * * to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation * * *.

Finally, section 2(c) strongly endorses the Treaty on the Non-proliferation of Nuclear Weapons, July 1, 1968, T.I.A.S. No. 6839, the sole function of which is to halt the proliferation of nuclear weapons.[11]

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Hart). But see id. at S8593 (remarks of Senator McClure).

[10]While the Act did not pass until after our December 23 decision, nearly identical language had been reported out of committee and was before the Senate in October, 1977. S. 897, 95th Cong., 1st Sess. § 105. Similar language had passed the House in September, 1977. H.R. 8638, 95th Cong., 1st Sess. § 103.

[11]Language identical to that quoted or referred to in the text had been reported out of committee and was before the Senate in October, 1977. S. 897, 95th Cong., 1st Sess. §§ 2 (a), (c), 3(a). Language of similar intent passed the House of September, 1977. H.R. 8638, 95th Congress 1st Sess. §§ 2 (1), (3), 3 (1), (3), (4).

The Alternative Fuel Cycle Studies

The alternative fuel cycle studies initiated by the President provide another important reason for termination. The studies will at least provide important information on plutonium recycle and its alternatives which the Commission must consider to reach a sound decision on wide-scale commercial plutonium recycle. The primary study is the International Nuclear Fuel Cycle Evaluation (INFCE), a multinational study of alternative fuel cycles aimed at "minimiz[ing] the danger of the proliferation of nuclear weapons without jeopardizing energy supplies or the development of nuclear energy for peaceful purposes." Final Communique of the Organizing Conference of INFCE (October 21, 1977). It will entail a comprehensive evaluation of the proliferation, technical, economic, and safeguards aspects of spent fuel reprocessing and alternative fuel cycles. INFCE may materially influence the nuclear fuel cycle plans of many of the over 50 participating countries, including the United States, although participants are not bound by the study's results. The INFCE organizing conference was held in Washington in October, 1977, at which time 8 working groups were established to examine all facets of the subject, including reprocessing and recycle.[12] The entire study is expected to take at least two years. See generally Statement of President Carter, Plenary Session of the Organizing Conference of INFCE (October 19, 1977); Final Communique, supra. Commission staff members are actively participating in the support effort for the United States' participation.

In order to develop a technical basis for United States contributions to INFCE, the Energy Research and Development Administration (now DOE) initiated an interagency Non-Proliferation Alternative System Assessment Program (NASAP). NASAP is intended as a comprehensive review and analysis of a wide variety of reactors and reactor fuel cycle systems and concepts emphasizing proliferation risks and considering technical, economic, and commercial feasibility, resource utilization, safety, the environment, and other factors.

The specific focus of both studies is on alternatives which combine superior proliferation resistance with efficient use of resources. In these circumstances, with the results of the studies expected in the near term, it would be inappropriate for the Commission to continue its present proceedings. The Commission must consider the information and alternatives developed in these studies before reaching a decision either on the GESMO proceedings or on licensing plutonium recycle functions.[13] If the studies reveal preferable alternatives, domestic plutonium recycle as it is presently conceived may be abandoned in favor of other processes. In any event, the information developed on plutonium recycle and its alternatives will probably be sufficiently extensive that any record compiled by the Commission in the interim would have to be substantially supplemented or entirely revised to reflect this information. Moreover, the viability of commercial plutonium recycle depends substantially on future energy demands and the availability and cost of uranium. Changes in projections of these factors during the pendency of the alternative fuel cycle studies would also require substantial revision of any record compiled in the interim.

In sum, the pending alternative fuel cycle studies together with the Administration's policy and the President's request strongly support the Commission's decision to terminate the GESMO proceeding and pending proceedings on plutonium recycle-related license applications.[14] As a result of this decision, the Commission also withdrew the November 1975 policy statement on mixed oxide fuel, 40 FR 53056 (November 14, 1975), which announced the policies under which the terminated proceedings had gone forward.

Commission Re-examination

The Commission's decision to terminate these proceedings does not involve their final disposition on the merits. As we have noted, the present state of studies and national fuel cycle policy evaluations precludes an informed decision on the merits of plutonium recycle at this time. Morever, the Administration has not taken a final position on plutonium fuel cycles, but rather opposes premature entry into a plutonium economy.

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[12]They are: (1) Fuel and Heavy Water Availability, (2) Enrichment Availability, (3) Assurances for Long-Term Supply, (4) Reprocessing, Plutonium Management, and Recycle, (5) Fast Breeder Reactors, (6) Spent Fuel Management, (7) Waste Management and Disposal, and (8) Advanced Reactors and Fuel Cycle Concepts.

[13]Accord, GAO Report, An Evaluation of the Administration's Proposed Nuclear Non-Proliferation Strategy, B-181963 (October 4, 1977). The Report analyzed at length the President's policy of deferring domestic reprocessing (pp. 36-52). Although it recommended that the Commission continue the GESMO proceedings, it also recommended that they be expanded to include alternatives to current reprocessing technology, and that the Commission "defer any irrevocable decision until," inter alia, "the feasibility of the alternatives to reprocessing is determined" (p. 52).

[14]The exceptions to termination of the recycle-related proceedings are discussed below.

Statement of Joseph Nye at Salzburg, supra. The Administration's policy will take appropriate account of the studies' results when they become available. Congress has also indicated that its position on non-proliferation may require re-examination after the completion of the studies. See Nuclear Non-Proliferation Act of 1978 § 602(e); 124 Cong. Rec. S1456, S1459 (daily ed. February 7, 1978) (remarks of Senators McClure and Glenn). The Commission is committed to re-examining its decision to terminate recycle-related proceedings in light of the completed studies, expected to take about two years, and any revisions of the Administration's policies. At the present time it is not possible to determine whether our proceedings will then be reinstituted or whether some other course will be adopted. But in this posture, termination is not a final disposition of the issues surrounding wide-scale plutonium recycle or of the individual license applications on the merits.[15] As we discuss in more detail below, we are empowered to decline to process applications while fundamental policy questions are being examined. See *Kessler* v. *FCC*, 326 F. 2d 673 (D.C. Cir. 1963); *Mesa Microwave, Inc.* v. *FCC*, 262 F. 2d 723 (D.C. Cir. 1958).

Arguments Favoring Continuation as a Policy Matter

The Commission does not find persuasive other arguments for continuing the recycle-related proceedings.

Some commentors have said that plutonium is as much-needed energy source and that the proceedings should be continued to permit its timely development. The Commission is acutely aware of the nation's need for electrical energy. However, as previously noted, the development of plutonium recycle entails substantial problems, and it is not yet clear whether they will outweight the potential energy benefits. The prolifieration risks of foreign plutonium recycle are an overriding foreign policy concern, and the President's efforts to reduce them justify at least some delay in related domestic activities. Furthermore, we expect to re-examine our decision in about two years. A delay in the implementation of plutonium recycle for this period of time does not provide substantial grounds for concern about the economic aspects of the Commission's decision.[16]

Finally, significant progress probably could not be made in these proceedings in the interim, since any record would probably have to be substantially supplemented or entirely revised in light of the alternative fuel cycle studies and changes in energy demand and uranium availability and costs in the interim.

Some commentors have also argued that the Commission's proceedings should continue so that the considerable resources invested by the NRC and the participants in the proceedings will not be wasted. We think such an argument rests on several false premises. We recognize the magnitude of the investment that participants and the staff have made in the proceedings. But we reject the notion that an unnecessary proceeding must continue to absorb time and resources simply because a substantial investment has already been made in it. Also if the proceedings are ultimately reopened, the record already created will be reintroduced to the extent appropriate. The contribution already made will thus be used to the extent possible. However, parts of the record which may have become outdated as a result of new information from the alternative fuel cycle studies and changing conditions could not somehow retrain their validity merely because the proceedings were continued on an interim basis. Indeed, a more substantial waste of effort would ensue if the proceedings were continued now and the record later required substantial revision.

Commentors have also contended that the GESMO proceedings would produce information important to the alternative fuel cycle studies by thoroughly investigating plutonium recycle as a "base case" against which other fuel cycles could be compared. This argument misconceives the Commission's function. The purpose of GESMO was to determine whether and under what conditions plutonium recycle would be licensed, as a prerequisite to review of pending or anticipated license applications for particular recycle-related facilities. While we closely cooperate with other agencies of government as appropriate, it is not the Commission's intention to transform a proceeding of this sort into a general study unrelated to the licensing of particular facilities.

Congress has determined that such studies, when appropriate, should be performed by the Department of Energy, which is currently engaged in studies necessary to implement INFCE and NASAP. Finally, as to the view of some commentors that continuing the GESMO proceeding would be useful to the President's domestic and international initiatives, we would only note that he has indicated that it would not.

Arguments that Continuation is Legally Required

We now turn to contentions that the Commission is legally required to continue the proceedings. Westinghouse, B. & W., and NLCPI contend that the Atomic Energy Act requires the Commission to continue individual plutonium recycle-related license application proceedings and that NEPA requires the Commission to continue GESMO.

Arguments based on the Atomic Energy Act

Westinghouse, B. & W., and NLCPI first observe that section 189(a) of the Atomic Energy Act requires that "[i]n any proceeding * * * for the granting * * * of any license or construction permit * * * the Commission shall grant a hearing upon the request of any person whose interest may be affected * * *." They contend that applicants constitute "person[s] * * * affected" and therefore that section 189(a) requires that the adjudicatory hearings on the license applications be completed. In addition, Westinghouse observes that section 103(b) of the Atomic Energy Act states that the Commission "shall" issue commercial licenses to applicants who meet the criteria set forth in that section, and that section 103(d) prohibits the issuance of any license which would "in the opinion of the Commission * * * be inimical to the common defense and security or to the health and safety of the public." Westinghouse argues, essentially, that an applicant's compliance with section 103(b) mandates issuance of a license unless the Commission makes an affirmative finding of inimicality under section 103(d), supported by a substantial basis in fact developed on an appropriate public record compiled at a public hearing under section 189(a). We disagree.[17]

The argument that the Act's licensing provisions somehow compel the processing of all applications is without merit. The Commission has the discretion to stop processing applications and to refuse to accept new ones when there are sound regulatory reasons to do so. This principle is particularly applicable when foreign policy considerations involving non-prolifera-

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[15] The license applications in these proceedings have been denied without prejudice to the applicants' rights to have consideration of their applications resumed at the point they were terminated, if a future Commission decision permits such a resumption and it is appropriate under the circumstances.

[16] The Commission's staff concluded in the final GESMO document that delaying plutonium recycle for five years would cost about $74 million. Final GESMO, vol. 4, VIII-9, XI-79. While this figure and other economic analyses were sharply contested in the GESMO hearings, we believe that the economic costs of our decision, whatever the proper value may be, are not so high that they are of substantial concern compared to the risks of nuclear explosives proliferation that are the basis for the Administration's policy.

[17] The discussion below applies as well to sections 53, 57, and 104 as it does to section 103.

tion have been strongly asserted by the President in his constitutional role as chief foreign policymaker. His judgment in such matters requires substantial deference. Also, the usefulness of the present record will be significantly affected by ongoing studies in which many nations are examining major policy questions involving the nuclear fuel cycle. Judicial decisions in analogous situations support this principle.

The *Permian Basin Area Rate Cases*, 390 U.S. 747, 776–781 (1968), dealt with the authority of the Federal Power Commission to impose a two and one half year "moratorium" on rate filings, while its new area ratemaking concept took hold. The Court sustained this moratorium, even though a section of the relevant statute seemed to authorize gas producers to file rate increases with the Commission to be effective in 6 months, subject to a later refund mechanism. Another section of that statute authorized the Federal Power Commission to determine whether existing rates are "just and reasonable", and to prescribe future rates by order. The Court rejected the argument that the statute gave gas producers an unrestricted right to file rate changes, such as to preclude a moratorium upon those increases.

In upholding the moratorium the Court specifically referred to the FPC's general rulemaking authority under section 16 of the Natural Gas Act as a source of its authority to impose moratoria. Id. at 776 n.40, 781. That section is nearly identical to section 161(p) of the Atomic Energy Act, which provides the NRC with general authority to issue "such rules and regulations as may be necessary to carry out the purposes of this Act." Moreover, section 103, under which applicants seek licenses, contains similar authority for the Commission to subject commercial licenses "to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this Act."

The Court also reasoned generally that "the width of administrative authority must be measured in part by the purposes for which it was conferred * * *," and that "the Commission's broad responsibilities * * * demand a generous construction of its statutory authority." 390 U.S. at 776 (footnote omitted); and cases cited therein. It further noted that the Commission's discretion in its authority to make rates necessarily extended to its entire process, "embracing the method used in reaching the legislative determination as well as that determination itself." *Id., American Commercial Lines* v. *Louisville & Nashville R. Co.*, 392 U.S. 571, 592 (1968). After analyzing the particular sections of the Act relied upon by the Commission and the gas producers, the Court concluded that the consequences of the gas producers' construction of the statute would be the "enervation" of the section under which the Commission had proceeded and the destruction of the Commission's new area ratemaking concept. 390 U.S. at 780. Having previously observed that "the ultimate achievement of the Commission's regulatory purposes (might) easily depend upon" its ability to adopt such concepts, id. at 777, the Court was "in the absence of compelling evidence that such was Congress' intention, unwilling to prohibit administrative action imperative for the achievement of the agency's ultimate purposes," id. at 780 "We cannot, in these circumstances, conclude that Congress has given authority inadequate to achieve with reasonable effectiveness the purposes for which it has acted." Id. at 777.

We see no reason why the NRC's statutory authority should be construed any less broadly. The Atomic Energy Act gives the Commission very wide authority and discretion to regulate the possession and use of nuclear materials through all of the usual administrative methods. Section 161(p), for example, has been quoted above, and section 161(b) provides that the Commission is authorized to:

> Establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protest health or to minimize danger to life or property * * *.

Indeed, the Court of Appeals for the District of Columbia Circuit has characterized the Atomic Energy Act as enacting:

> A regulatory scheme which is virtually unique in the degree to which broad responsibility is reposed in the administering agency, free of close prescription in its charter as to how it shall proceed in achieving the statutory objectives.

Siegel v. *AEC*, 400 F. 2d 778, 783 (1968); *Union of Concerned Scientists* v. *AEC*, F. 2d 1069, 1079 (D.C. Cir. 1974). We thus conclude that the Commission possesses general authority to terminate consideration of licenses under section 103, subject to later reexamination, without reaching the specific question of inimicality with respect to any particular facility under section 103(d) based on an adjudicatory record.

The argument that applicants are entitled to a hearing on their applications under section 189(a)[18] must be rejected for similar reasons, by analogy to judicial decisions supporting the FCC's power to "freeze" license applications. Despite a statute which required either a hearing or a summary grant of applications, the FCC has on several occasions instituted a "freeze" on specified classes of license applications, neither granting them nor conducting hearings, when it was developing new response to a particular problem which would be exacerbated by granting licenses. Even though the freezes appear to contravene the statute, the courts have consistently upheld them, and have found no right to a hearing. *Kessler* v. *FCC*, 326 F. 2d at 684; *Mesa Microwave, Inc.* v. *FCC*, *supra; Weintronics, Inc.* v. *FCC*, 331 F. 2d 782 (D.C. Cir. 1964); *Harvey Radio Laboratories, Inc.* v. *United States*, 289 F. 2d 458 (Cir. 1961). In *Mesa Microwave*, the court sustained a freeze on all pending and future cable TV applications pending a broad technological review. The courts have also indicated that under the new policies developed during a freeze, previous license applicants might not receive licenses. See *Harvey Radio Laboratories, supra*, at 460.

The decisions rest not so much on any statutory provision as on broad considerations of a regulatory agency's proper authority—general findings that the agency was to regulate in the public interest and that its actions were in the public interest and were not arbitrary and capricious. While the Atomic Energy Act uses the terms "public health and safety" and "common defense and security," we see no reason why the same regulatory tools available to other agencies to carry out their statutory mandates should not also be available to the NRC, so long as the line between regulation and promotion drawn by the Energy Reorganization Act of 1974 is observed. In addition, when the President has expressly requested that the Commission terminate individual licensing proceedings to assist the implementation of an important national and foreign policy, we are hard-pressed to see how the interests of the individual license applicants here could outweigh the government's interest in preventing the proliferation of nuclear explosives. This is particularly so when our refusal to follow the President's request could substantially undermine the international studies and sensitive negotiations which the President has initiated. We would take such a course only if the law clearly compelled it and, as we have shown above, that is not the case here. We thus conclude that this Commission is empowered to terminate licensing

[18] The courts have read this section flexibly. See *BPI* v. *AEC*, 502 F. 2d 424 (D.C. Cir. 1974), holding that the Commission had the authority (under section 161) to deny a petition to intervene for failure to set forth specific contentions, notwithstanding section 189's guarantee of a hearing to anyone with the requisite interest.

hearings and other licensing proceeding under section 189(a), subject to later re-examination. See *Siegel* v. *AEC, supra.*

ARGUMENTS BASED ON NEPA

Westinghouse, B&W, and NLCPI also contend that terminating the GESMO proceedings would itself be a major federal action under NEPA, and thus an environmental impact statement on plutonium recycle must be completed before the GESMO proceedings may be terminated.[19] This contention draws some apparent support from the conclusion in the final GESMO document on health, safety, and the environment that recycling plutonium could reduce impacts from the mining and milling of uranium by approximately 20 percent. Final GESMO, vol. 3, pp. IV-F-19 to -23; vol. 4, pp. VIII-25 to -26, VIII-44, XI-71, XI-74; see New Mexico comment of June 1977. Discontinuing consideration of such a program could be argued to have a significant environmental impact and thus required an impact statement. The commentors concluded that NEPA requires continuation of GESMO.

We disagree. As we stated above, we terminated GESMO in part because any record assembled in GESMO before the completion of the alternative fuel cycle studies would be an inadequate basis for a Commission decision on plutonium recycle. This course of awaiting information on alternatives is consistent with NEPA's requirement that we carefully develop and thoroughly evaluate alternatives. NEPA §§ 1092(2) (C)(iii), (E); *Natural Resources Defense Council* v. *Morton*, 458 F. 2d 827 (D.C. Cir. 1972). The alternative fuel cycle studies are broad in scope and will produce a great deal of information about alternatives to plutonium recycle as it is presently conceived, and a full evaluation of these alternatives must await the availability of that information. While NEPA might permit us to proceed without the results of these studies, in the face of substantial uncertainty, it does not require us to complete proceedings on an impact statement when we do not yet have a substantial part of the information required to make the record of those proceedings adequate for responsible decisionmaking

Moreover, NEPA does not require public hearings. *Jicarilla Apache Tribe of Indians* v. *Morton*, 471 F. 2d 1275, 1286 (9th Cir. 1973). The hearings we held on GESMO were appropriate as a matter of informed decisionmaking. See 40 FR at 53507, 53060. Once the Commission embarked on hearings, NEPA required consideration of environmental factors in those proceedings, as as well as health, safety, and economic factors. See *Calvert Cliffs' Coordinating Committee* v. *AEC*, 449, F. 2d 1109 (D.C. Cir. 1971). However, NEPA did not compel initiation of the hearings to begin with, and does not now prevent their termination.

We also disagree with the proposition that the termination itself—not on the merits and due to be re-examined—requires its own impact statement. It is not the kind of "recommendation or report on a proposal" which the Supreme Court has determined to require an impact statement. *Aberdeen & Rockfish R. Co.* v. *SCRAP*, 422 U.S. 289, 320-321 (1975) (*SCRAP II*); *Kleppe* v. *Sierra Club*, 427 U.S 390 (1976). This decision simply preserves the status quo, rather than causing any new damage to the environment. NEPA has never, to our knowledge, been interpreted to require an impact statement in such circumstances. GESMO is a study of a proposed course of action, and its termination will simply continue the status quo. This situation is thus the reverse of that in *National Helium Corp.* v. *Morton*, 455 F. 2d 650 (10th Cir. 1971), and *City of New York* v. *United States*, 337 F. Supp 150 (E.D.N.Y. 1972), where termination of long-standing activities substantially altered the status quo and impact statements were required. It is also the converse of *Scientists' Institute for Public Information* v. *AEC*, 481 F. 2d 1079 (D.C. Cir. 1973) (*SIPI*), where the AEC was required to write a generic statement on the ongoing Liquid Metal Fast Breeder Reactor research program and the impacts future commercial use of the technology might have. In the instant case, commercial implementation of recycle technology is being postponed at least until a fuller evaluation can be carried out. The mere fact that this will be accomplished through a policy statement, the only parallel to *SIPI* that commentors cite, hardly requires an impact statement.[20]

Finally, it is only necessary to consider the practical implications of commentors' interpretation of NEPA to demonstrate its absurdity. By turning NEPA on its head, the result would be to overwhelm the government by requiring preparation of impact statements each time an agency decided not to pursue a major federal action. Such a result was not intended by Congress when it enacted NEPA and defies a reasonable construction of the statute.

REMAINING POINTS

EXCEPTIONS TO THE TERMINATION OF RECYCLE-RELATED PROCEEDINGS

Two kinds of plutonium recycle-related license application proceedings were excepted from this decision. The first is "proceedings on licenses for the fabrication or use of small quantities of mixed oxide fuel for experimental purposes." The exception for "use" covers the three operating commercial reactors which currently have partial loads of mixed oxide fuel—Big Rock Point, Dresden Unit 1, and Quad Cities Unit 1. The "fabrication" exception covers the operation of small-scale facilities which fabricate small quantities of plutonium-bearing fuel for experimental purposes.

These activities are essentially experimental in nature, and are thus outside the scope of this decision, which concerns wide-scale commercial reprocessing.[21] They were exempted from the Second Circuit decision, which similarly distinguished commercial-scale reprocessing from licensing for "experimental and feasibility purposes." 539 F.2d at 845, vacated and remanded to determine mootness, 434 U.S. 1030. These limited activities may thus proceed without completion of GESMO. Moreover, the use exception was specifically mentioned in the Eizenstat letter. While no exception for fabrication appeared there, we think one along the lines of the use exception may properly be implied, since use would be impossible without the related fabrication capability. We thus believe that these facilities are outside the scope of the President's request, and that there is no reason not to allow their acitivites to continue.

The second class of excepted proceedings is "those portions of proceedings which involve only spent fuel storage, disposal of existing waste, or decontamination or decommissioning of existing plants." These proceedings are related to plutonium recycle only in that they may occur at reprocessing facilities. They do not otherwise involve commercial implementation of plutonium recycle, and therefore are not subject to this decision. Additional spent fuel storage capacity is currently needed, partly as a result of the nation's deferral of reprocessing. The use of storage facilities available or planned at existing or planned reprocessing plants thus should not be fore-

[19] As several commentors noted, if the Commission continued the individual license application proceedings, it would not be appropriate to terminate GESMO. Licensing the Barnwell plant or the proposed Exxon facility for commercial use would constitute approval of wide-scale plutonium recycle, and prior completion of GESMO or similar generic proceedings would be required. Cf. November 1975 policy statement, 40 FR at 53057, 53061-53062 (November 14, 1975).

[20] We think these arguments also adequately demonstrate that no impact statements are required for termination of individual plutonium recycle-related license applications.

[21] The licenses for the Naval reactor program and the Fast Flux Test facility are also outside the scope of this decision, since they are not related to commercial plutonium recycle.

closed by our decision here.[22] The NFS West Valley reprocessing plant, which is no longer in commercial operation, generated high level wastes which are currently stored at the site. A program for their disposal is being investigated. Decontamination or decommissioning of the plant is also being investigated by DOE. The Commission is involved in that investigation, which may result in NRC licensing activity. The December 23 order should be read as allowing storage as well disposal of existing waste and the possession of radioactive materials.[23]

PUBLICATION OF THE GESMO DRAFT SAFEGUARDS SUPLEMENT

In accordance with the November 1975 policy statement, the staff began work on a safeguards supplement to the GESMO document. That supplement is now essentially complete. All commentors favor its release, and we believe it would be in the public interest to publish it as a staff technical report. It should provide considerable safeguards information useful in the alternative fuel cycle studies.

LIMITED EXCEPTION FOR NON-PROLIFERATION PURPOSES

The order also stated that the Commission "reserve[d] for decision, if it arises, the question of whether a facility such as the Barnwell facility may be licensed for experimental and feasibility purposes on a noncommercial basis to investigate processes which support the nation's non-profileration objectives."[24] This reservation was in response to the provisions in the DOE authorization bill, discussed above, and AGNS' comment that such activities should not be foreclosed (no other commentors addressed this particular issue). So long as such activities support the nation's non-proliferation objectives, the Commission believes they would not conflict with the policy underlying the decision to terminate these proceedings. Limited to "experimental and feasibility purposes on a noncommercial basis," such activities would also be consistent with the Second Circuit's decision. See 539 F. 2d at 845. Activities at Barnwell may not need NRC approval if they are "under contract with and for the account of" DOE. See Atomic Energy Act § 110(a). However, our decision here should not foreclose activities requiring a Commission license which fall within the above category.

CONCLUSION

The reasons stated above express the basis for the Commission's actions stated in its order of December 23, 1977. This memorandum shall be filed in the dockets of all the proceedings listed in that order and shall be served on all parties of record.

The separate views of Commissioner Kennedy appear below.

Commissioner Gilinsky was not present at the Commission meeting at which this document was approved.

Dated at Washington, D.C., this 8th day of May, 1978.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

CONCURRING VIEW OF COMMISSIONER KENNEDY

I concur in the Commission's decision to bring the GESMO proceeding to a halt. As indicated in the Commission's order of December 23, 1977, however, I would have preferred that the Commission "defer" rather than "terminate" the GESMO proceeding and the proceedings on pending or future plutonium recycle-related license applications. I take this view for the following reasons.

"Deferral", in my view, is more consistent with the President's Policy Statement of April 7, 1977. The President stated that the U.S. should "defer indefinitely the commercial reprocessing and recycling of the plutonium produced in U.S. nuclear power programs." Since that time, as Mr. Eizenstat's letter of October 4, 1977 notes, "(t)he Administration has proposed an accelerated research and development program to examine alternative fuel cycles not involving direct access to plutoniium. The President has also asked other countries to join us in an International Nuclear Fuel Cycle Evaluation to examine alternative approaches to advanced nuclear technologies." Thus it is the Administration's position that any final decision on reprocessing and recycle will have to await the completion of the domestic and international studies on alternative fuel cycles. Meanwhile, deferral of reprocessing would be a clear signal to other countries that the United States was forgoing any concrete steps toward implementation of plutonium recycle pending results of the ongoing studies. This is a significant argument bearing on the foreign policy of the United States and, as such, deserves to be given considerable weight in our deliberations. And in that light, I believe that it would have been more appropriate to hold in abeyance our consideration of domestic reprocessing than to "terminate" the very process which was designed to lead to a decision. For "termination" may be seen by some as evidence of a predetermined conclusion.

"Deferral" also is more consistent with active participation by the NRC in the INFCE study of alternative fuel cycles, and the Commission's December 23 decision to re-examine the issues of reprocessing and recycle following the alternative fuel cycle studies. "Termination" of the GESMO proceeding implies that the agency has ceased to consider matters related to an eventual decision on reprocessing. This is not the case. The NRC has not foreclosed consideration of plutonium reprocessing and recycle. Indeed, the Commission's very considerable participation in the INFCE clearly demonstrates that we are continuing to develop and analyze not only information directly related to the "base case" of plutonium recycle considered in GESMO, but also information regarding more proliferation-resistant fuel cycles. All of this information will be demonstrably relevant at some point in the future to a final Commission decision on reprocessing and recycle. It would seem clear, therefore, that we have not terminated our examination of the questions addressed by GESMO. We have instead merely halted a hearing on one option alone, while we determine which other available options ought also to be considered.

Finally, I believe that "deferral" rather than "termination" of the GESMO proceeding is the closer analogy to the several "freeze" cases which the Commission referenced in support of our decision to halt consideration of individual license applications.[25] I agree that those cases strongly support the concept of the Commission's suspending action on all licenses in a particular class, while it develops new policy related to that class. In each of those situations, however, a "policy" was being developed. The cases, therefore, are of questionable relevance in a situation in which it was believed that even consideration by the Commission of one class of licenses would be counterproductive to the President's policy.

Deferral of these proceedings would have avoided the unfortunate appearance that the Commission has made a

[22] AGNS currently holds a construction permit for portions of the Barnwell facility not covered by the exception for spent fuel storage, and thus within the ambit of activities for which proceedings have been terminated. However, since those facilities have already been essentially completed and the operating license proceedings have been terminated, we see no need to disturb the outstanding construction permit, or to continue the pending NEPA proceedings on the modification, suspension, or revocation of the construction permit.

[23] NFS currently holds an operating license for the West Valley facility. The facility was shut down in 1971 for modification, and NFS has since indicated that it will not reopen it. The staff's plans to convert the operating license to possession only are appropriate in light of our decision here.

[24] Commissioner Gilinsky noted that he considered the inclusion of this item unnecessary and inappropriate in the order.

[25] See pages 22-24 of the Commission's opinion.

final decision not to act upon license applications which are properly before it. Additionally, deferral would have left the Commission less susceptible to the argument that the Commission is improperly deferring to a Presidential request affecting not only a rulemaking hearing but also specific licenses which are being treated in an adjudicatory context.

[FR Doc. 78-12935 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket Nos. 50-556; 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN COOPERATIVE (BLACK FOX STATION, UNITS 1 AND 2)

Order

1. Pursuant to the Commission's amendment to Table S-3 of 10 CFR Part 51 and the directions therein (43 FR 15613, Apr. 14, 1978), the record in this case is reopened on National Environmental Policy Act issues for the limited purpose of receiving new evidence on radon releases and on health effects resulting from radon releases.

2. In a conference call on May 5, 1978, Intervenors' counsel advised that Dr. Robert Pohl would be called as an expert witness. Applicants' counsel advised that no witnesses would be presented. Staff counsel advised that Dr. Reginald Gotchy and Mr. Paul Magno would be called to testify, that Messrs. Homer Lowenberg, Jack Rothfleisch and Ralph Wilde might be called to testify, and that the pre-filed written testimonies of the witnesses called to testify will be the affidavits attached to the "Staff's Motion for Leave To Admit Radon Testimony," dated April 20, 1978.

3. The parties promptly shall initiate and conclude discovery procedures, if any, and on or before May 22, 1978, the Intervenors shall file the written testimony of Dr. Pohl. Upon service of this Order, the Staff will identify those witnesses who, in addition to Dr. Gotchy and Mr. Magno, will appear as expert witnesses.

4. This hearing, reopened for the limited purpose set forth in paragraph 1, above, will be held on June 5 and 6, 1978 at 9 a.m. in courtroom No. 3, United States Courthouse, 333 West Fourth Street, Tulsa, Okla.

5. In light of the instant Order, "Staff's Motion for Leave To Admit Radon Testimony," dated April 20, 1978, is denied. Applicants' motion for conference call, dated May 1, 1978, has been mooted by the conference call of May 5, 1978, and thus is denied.

6. The public is invited to attend the hearing.

It is So Ordered.

Dated at Bethesda, Md., this 8th day of May 1978.

For The Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc. 78-12940 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket Nos. 50-445 and 50-446]

TEXAS UTILITIES GENERATING CO., ET AL. (COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2)

Receipt of Application for Facility Operating Licenses

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has docketed a portion of an application for facility operating licenses from Texas Utilities Generating Co., Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co., (the applicants), which would authorize the applicants to possess, use, and operate two pressurized water nuclear reactors (the facilitites), located in Somervell County, Tex. Each unit would operate at a reactor core power level of 3411 megawatts thermal. Construction of the facilities was authorized by Construction Permits Nos. CPPR-126 and CPPR-127, issued by the Atomic Energy Commission[1] on December 19, 1974. Construction of Unit 1 is anticipated to be completed by August 1, 1981, and Unit 2 by August 1, 1983.

The portion of the application docketed by the Commission on April 25, 1978, consisted of the Final Safety Analysis Report, which is currently undergoing review. The applicants submitted an Environmental Report which has not yet been accepted for docketing. Upon docketing of the Environmental Report, the Commission will notice an opportunity for hearing on radiological safety and environmental issues to be considered during the review. After the Environmental Report has been accepted and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a Draft Environmental Statement will be prepared by the Commission's staff. Upon preparation of the Draft Environmental Statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the Draft Statement, requesting comments from interested persons on the Draft Statement. The Draft Environmental Statement will focus only on matters which differ from those previously discussed in the final Environmental Statement prepared in connection with the issuance of the construction permits. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the staff will prepare a Final Environmental Statement, the availability of which will be noticed in the FEDERAL REGISTER.

Upon completion of the staff's safety and environmental reviews, the Commission will consider the issuance of facility operating licenses to Texas Utilities Generating Co., Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co., which would authorize the applicants to possess, use, and operate the Comanche Peak Steam Electric Station, Units 1 and 2.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated Fedruary 27, 1978, which is available for public inspection at the Commission's Public document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Somervell County Public Library, On the Square, P.O. Box 417, Glen Rose, Tex. 76043. Additionally, all correspondence documenting the staff's review of the application is available at these locations. As they become available, the following documents may be inspected at the above locations: (1) the Safety Evaluation Report prepared by the Office of Nuclear Reactor Regulation; (2) the Draft Environmental Statement; (3) the Final Environmental Statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Dated at Bethesda, Md., this 8th day of May 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-12941 Filed 5-11-78; 8:45 am]

[1] Pursuant to the Energy Reorganization Act of 1974, as amended, the Atomic Energy Commission (AEC) was abolished. the Nuclear Regulatory Commission assumed the licensing and related regulatory functions of the AEC.

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on May 8, 1978, the President received a report from the United States International Trade Commission (USITC) on the case of Certain Stainless Steel Flatware (Investigation

No. TA-201-30). The Commission submitted a report containing an affirmative determination that Certain Stainless Steel Flatware, provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55 and, if included in sets, 651.75 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission finds and recommends that, to prevent or remedy the serious injury to the domestic industry, it is necessary to impose rates of duty, in lieu of the present rates of duty, with respect to U.S. imports of knives, forks, spoons, and ladles, having stainless steel handles, valued under 60 cents each, as follows:

Recommended rates of duty

Item	1st year	2d year	3d year	4th year	5th year
Knives and forks: Valued under 25¢ each (TSUS items 650.08, 650.10, 650.38, and 650.40).	1¢ each +55 pct ad valorem.	1¢ each +50 pct ad valorem.	1¢ each +45 pct ad valorem.	1¢ each +40 pct ad valorem.	1¢ each +30 pct ad valorem.
Valued 25¢ or more but under 60¢ each (TSUS items 650.09, 650.12, 650.39, and 650.42).	0.5¢ each +55 pct ad valorem.	0.5¢ each +50 pct ad valorem.	0.5¢ each +45 pct ad valorem.	0.5¢ each +40 pct ad valorem.	0.5¢ each +30 pct ad valorem.
Spoons valued under 60¢ each (TSUS items 650.54 and 650.55).	55 pct ad valorem ..	50 pct ad valorem ..	45 pct ad valorem ..	40 pct ad valorem ..	30 pct ad valorem.

Under TSUS item 651.75, knives, forks, spoons, and ladles having stainless steel handles will continue to be dutiable at the rate of duty applicable to that article in the set subject to the highest rate of duty including, for such articles valued at under 60 cents each, the rates recommended above.

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) the geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-30).

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

to be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Tuesday, May 30, 1978.

WILLIAM B. KELLY, Jr.
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-13005 filed 5-11-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20535; 70-6128]

ALABAMA POWER CO.

Proposal To Acquire Municipal Distribution System

MAY 5, 1978.

Notice is hereby given that Alabama Power Co. ("Alabama"), P.O. Box 2641, Birmingham, Ala. 35291, a public-utility subsidiary company of The Southern Co. ("Southern"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to acquire the electric distribution system ("Distribution System") of The Utilities Board of The town of Fulton, Ala. ("the Board") from the Board. Alabama presently serves the Board with its electric power requirements and the Board resells such power to its customers in the town of Fulton, Ala. The Board presently serves seventeen commercial customers and 163 residential customers. Upon consummation of the acquisition, Alabama would serve the Board's customers and the Board would discontinue selling power. Alabama states that it has been advised by the Board that the Board seeks to sell the facilities because the limited number of customers served and the associated revenues do not justify the

maintenance of a staff of qualified engineers, electricians, and other technicians required for the maintenance and operations of the Distribution System.

Alabama states that the total purchase price of the Distribution System is $120,000.00 and was arrived at through arms-length negotiations between Alabama and the Board. The original cost and the Board's book cost of the Distribution System is $68,840.00, and, as of September 30, 1977, the applicable accumulated depreciation is $68,157.00. The reproduction cost depreciated of the Distribution System, including a reasonable rate of return over its remaining useful life, is $129,796.15. Alabama estimates that the addition of the Board's existing customers as retail customers of Alabama will result in increased annual revenues to Alabama of $36,210.35, based on present rates.

It is stated that upon acquisition of the Distribution System, the Distribution System will become part of the integrated transmission and distribution system of Alabama. The Distribution System is currently connected to Alabama's transmission system at its Scotch Lumber Co. Substation.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $4,000, including legal fees estimated at $1,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12887 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 14737; SR-Amex-78-7; SR-NYSE-78-12]

AMERICAN STOCK EXCHANGE, INC. AND NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Changes

MAY 4, 1978.

On February 23 and 24, 1978, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10006, and the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, respectively filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of proposed rule changes which would provide investors with a simple and inexpensive procedures for the arbitration of small claims against member firms.[1] The proposed rules would provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500.[2]

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of Commission releases (Securities Exchange Act Release Nos. 14546 and 14547, March 10, 1978) and by publication in the FEDERAL REGISTER (43 FR 10994 and 10996, March 16, 1978). All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NYSE and the Amex, and in particular, the requirements of Section 6 and the rules and regulations thereunder. The proposed rule changes will provide a more effective efficient and economical dispute resolution system for public investors with small claims and thus will protect investors and the public interest.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12894 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 14624; File No. SR-CBOE-77-21]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Filing of Amendment to Proposed Rule Change

MARCH 31, 1978.

The Chicago Board Options Exchange, Inc. ("CBOE") submitted on October 25, 1977, a proposed rule change under rule 19b-4, designated by the CBOE as Interpretations .01 and .02 to its existing rule 4.16, providing for the imposition of trading restrictions on discount opening uncovered option writing transactions during the pendency of underwritten distributions of securities underlying call options traded on the CBOE. Notice of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14136 (November 4, 1977)) and by publication in the FEDERAL REGISTER (42 FR 59141 (November 15, 1977)).

As originally filed, the proposed rule change would have imposed trading restrictions on discount opening uncovered option transactions ("discount transactions") at the request of an issuer of securities underlying a CBOE-traded call option which is engaged in a public underwritten distribution of such underlying securities (or securities exchangeable for or convertible into such underlying securities), or at the request of the representative of the underwriters of such distribution and would have been in effect for the period that the underwriters were engaged in stabilizing activities. The proposed rule change would have excepted discount transactions effected by marketmakers acting in the course of contributing to a fair and orderly market. On March 27, 1978, the CBOE filed an amendment to Interpretation .01 of the proposed rule change which eliminates the exception for discount transactions by CBOE marketmakers as well as the re-

[1] On April 12, 1978 the NYSE filed with the Commission an amendment to its proposed rule change clarifying its constitutional provisions with respect to the composition of its arbitration panels.

[2] The proposed rules also provide a procedure for interposing related counterclaims. This procedure is to be clarified by the NYSE and the Amex with respect to the scope of "related" counterclaims; the clarification will be reflected in the stated policies, practices, or interpretations of the exchanges, as well as in the arbitration booklet to be distributed to public investors.

quirement that the issuer or underwriter submit a written request that the CBOE impose restrictions on discount transactions. On the basis of the proposed rule change, as amended, restrictions on discount transactions (including discount transactions by CBOE marketmakers) would be imposed commencing at the time the CBOE is advised by the issuer or underwriter (or the Secretary of the CBOE is otherwise notified) that the underwriters have initiated stabilizing activities in the underlying securities and terminating upon the termination of such stabilizing activities.

Publication of the release which provides notice of the amendment to the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of April 3, 1978. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views, and arguments concerning the submission on or before June 12, 1978. Persons desiring to make written submissions 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-CBOE-77-21.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12893 Filed 5-11-78; 8:45 am]

[8010-01]

(Release No. 34-14725; File No. SR-CBOE-1978-12)

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on April 19, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows (additions are italicized; deletions are bracketed):

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 4.17 Restriction of Out-of-the-Money-Options

(a) (No change)
(b) (1)-(3) (No change)
(b) [or] (4) *the entry of an order for the purchase of a put against a long position on a share-for-share basis in either the underlying security or a security immediately exchangeable or convertible without restriction other than the payment of money into the underlying security; or* [(4)] (5) any transaction of a Market-Maker pursuant to the provisions of Rule 8.7.
(c) (No change)
. . . Interpretations and Policies: (No change)

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of this proposed change to rule 4.17 is to allow investors which have a postion in a security underlying Exchange-traded options or a security which is exchangeable for or convertible into a security underlying Exchange-traded options to purchase a put option on a share-for-share basis which would have the effect of protecting such purchaser from a decline in the price of the underlying stock.

The operation of this proposed exception to the prohibitions in paragraph (a) of rule 4.17 is the same as that of paragraph (b)(1). Both provide a means whereby investors may protect their long securities positions from market declines through effecting offsetting options transactions.

The basis under the Act for this proposed rules change is found in that portion of section 6(b)(5) which specifies that rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

Oral comments from member firms doing business with the public suggest that this proposed rules change is desired by and would be beneficial to the public.

The Exchange does not believe that this proposed rules change will impose any burden upon competition.

On or before June 16, 1978, or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 30, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 1, 1978.

[FR Doc. 78-12895 Filed 5-11-78; 8:45 am]

[8010-01]

[Rel. No. 10231; 811-915]

INTEGON GROWTH FUND CORP.

Filing of Application for an Order Declaring That Applicant Has Ceased to Be an Investment Company

MAY 4, 1978.

Notice is hereby given that Integon Growth Fund Corp. ("Applicant"), 420 North Spruce Street, Winston-Salem, N.C. 27102, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 27, 1978, pursuant to section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under the laws of the State of North Carolina, registered under the Act on November 24, 1959. Subsequently, on December 14, 1959, it filed a registration statement on form S-5 under the Securites Act of 1933 (file No. 2-15928) for the public offer and sale of shares of its common stock. This registration statement was declared effective by the Commission on April 29, 1960, and Applicant was thereby authorized to offer 290,000 shares of its common stock for sale to the public.

At a Substitute Annual Meeting of Applicant's shareholders held on December 30, 1976, more than two-thirds of Applicant's shareholders approved

an Agreement and Plan of Reorganization which provided for, among other things, the sale by Applicant of substantially all of its assets to Bullock Fund, Ltd. ("Bullock"), a Maryland corporation and a diversified, open-end management investment company registered under the Act, in exchange for shares of voting stock of Bullock, and the distribution of Bullock shares to the holders of Applicant's outstanding shares in liquidation of Applicant. The sale and exchange transaction was consummated on January 6, 1977, at which time all outstanding shares of the Applicant became shares of Bullock.

The application states that Applicant currently has no assets, no securityholders, no outstanding debts, and that it is not a party to any pending litigation or administrative proceedings. The application also states that Applicant is not currently engaged and does not propose to engage in any business activities. The application further states that Applicant is currently in the process of being liquidated pursuant to North Carolina State law; and that it intends to file a certificate of dissolution pursuant to such law, which will complete the process of its formal dissolution under North Carolina State law.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 30, 1978, at 5:30 p.m., submit to the Commission in writing a request for hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12888 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 20533; 70-6159]

LOUISIANA POWER & LIGHT CO.

Proposed Sale and Leaseback of Nuclear Fuel

MAY 5, 1978.

Notice is hereby given that Louisiana Power & Light Co. ("Louisiana"), 142 Delaronde Street, New Orleans, La. 70174, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to enter into a lease with Bayou Fuel Co. ("Bayou"), under which Louisiana would lease nuclear fuel and incident facilities from Bayou. The nuclear fuel will be used to satisfy the fuel requirements of Louisiana's Waterford Unit No. 3 nuclear-fired electric generating facility under construction near Killona, La. Bayou will be a wholly owned subsidiary of Lehman Leasing, Inc. ("Lehman Leasing"), a leasing subsidiary of Lehman Bros. Kuhn Loeb, Inc., an investment banking firm.

Louisiana currently has contracts for the supply of nuclear materials and services and for the fabrication of nuclear fuel cores to be used in Waterford 3. It is expected that the fabrication of the initial core will be completed in 1980, and that fuel loading of the initial core in the reactor will commence that same year. Immediately upon receipt of the order of the Commission in this matter, Louisiana will sell to Bayou its interest in the supply of nuclear fuel for the first core of Waterford 3 and simultaneously will enter into a lease with Bayou. Bayou will pay Louisiana its book cost (including applicable allowance for funds used during construction) of such interest, which at February 28, 1978, was $7,999,259.

Under the terms of the lease, Bayou will make additional payments to suppliers, processors, and manufacturers necessary to carry out the terms of Louisiana's contracts for nuclear fuel for Waterford 3 or Louisiana will make such payments and will be reimbursed by Bayou; Bayou may also make payments to future suppliers of nuclear fuel for Waterford 3 or Louisiana will make such payments, subject to reimbursement by Bayou. Bayou's maximum commitment to make payments for nuclear fuel is $59,000,000 at any one time outstanding.

Under the lease, Louisiana will be responsible for operating, maintaining, repairing, replacing, and insuring the nuclear fuel and for paying all taxes and costs arising out of the ownership, possession, or use thereof. The term of the lease will be through June 1, 2028; however, if either party gives written notice of termination by June 1, 1980, or any subsequent June 1, the lease shall automatically terminate on June 1 of the third following year.

The obligation to make lease payments will commence the term of the lease; they will be payable quarterly. These payments will include: (A) a quarterly lease charge, which will represent an administrative charge of ⅛ of 1 percent per annum of the stipulated loss value, as payable by Bayou to Lehman Leasing, and Bayou's other allocated operational costs, and (B) a burn-up charge equal to the cost of the nuclear fuel consumed while it is in the reactor and producing heat. Prior to commercial operation of Waterford 3 or when the nuclear fuel is not in the reactor and producing heat, Louisiana may elect to capitalize quarterly lease charges or daily portions thereof so long as the amount of credit still available to Bayou under its $60,000,000 credit agreement with Security Pacific National Bank ("Bank") exceeds the sum of the stipulated loss value of the nuclear fuel, the amount of such charges, and $1,000,000. Louisiana may consequently, subject to the foregoing limitation, defer rental payments until those times during commercial operations when the nuclear fuel is in the reactor and producing heat in the production of electric energy.

Louisiana may terminate the lease at any time. Bayou may terminate the lease under certain circumstances, including, among others, if it becomes subject to certain adverse rules, regulations, or declarations with respect to its status or the conduct of its business, if there is a nuclear incident of sufficient magnitude, and by notice of a desire not to renew the lease by June 1, 1980, or by any subsequent June 1 followed by the lapse of 3 years. Upon the occurence of any event of termination, title to the nuclear fuel shall automatically be transferred to Louisiana. Within 120 days, but not less than 90 days after notice of termination, Louisiana will be unconditionally obligated to purchase the nuclear fuel from Bayou at a purchase price equal

to the sum of the stipulated loss value of the nuclear fuel plus the termination rent (defined as an amount which, when added to the stipulated loss value then payable by Louisiana, will enable Bayou to retire all of its obligations under the credit agreement at their respective maturities) both computed as of the day of purchase. Upon consummation of such purchase, all obligations of Louisiana under the lease will terminate except to the extent provided therein.

Upon the occurence or an event of default, Bayou may: (A) treat the event of default as an event of termination with the results specified in the proceeding paragraph and proceed at law or in equity for enforcement of the applicable provisions of the lease or for damages, and/or (B) it may terminate the lease. If Bayou terminates the lease as a result of the occurrence of an event of default, Louisiana's interest in the nuclear fuel will terminate and Bayou may take possession of the nuclear fuel and sell it. In the event of such a termination, Bayou may recover from Louisiana damages and expenses resulting from the breach of the lease, all accrued unpaid amounts owed to it by Louisiana, and liquidated damages.

Louisiana proposes to charge the rent under the lease to fuel expense and to account for the transaction as a lease rather than a purchase.

Under the terms of the lease, the amount of the quarterly lease payments by Louisiana will be measured by, among other things, the amount of costs incurred by Bayou in connection with its acquisition of nuclear fuel. Bayou has advised Louisiana that it will finance its obligations under the lease through the credit agreement with the Bank. As required by the lease, Louisiana would approve of Bayou's entry into the credit agreement.

Under the credit agreement, Bayou would issue and sell its commerical paper, supported by an irrevocable letter of credit issued by the Bank. Bayou proposes to use Lehman Bros. Kuhn Loeb, Inc., or Lehman Commercial Paper, Inc. (collectively or separately referred to as "Lehman") as dealers in connection with the sale of the commercial paper, which sale will be at a rate expected to be equal to the best rate available (including a ⅛ of 1 percent per annum dealer discount) consistent with prudent marketing considerations. Marine Midland Bank ("Depositary") would, under a depositary agreement, act as issuing agent for Bayou's commercial paper. Under the credit agreement, Bayou could also make revolving credit borrowings to be evidenced by its promissory notes when it is impossible or impracticable to issue commercial paper. The term of the credit agreement will be through June 1, 2028; however, if any party gives written notice of termination by June 1, 1980, or any subsequent June 1, the credit agreement shall automatically terminate on June 1 of the third following year.

In consideration for the issuance of the letter of credit, Bayou will pay the Bank a quarterly fee of 1 percent per annum (computed on the basis of a 365-day year) on the average principal amount outstanding of Bayou's commercial paper (determined on a daily basis). In addition, Bayou will pay the Bank a commitment fee at a rate per annum (based on a 365-day year and actual days elapsed) of ¼ of 1 percent of the difference between the Bank's commitment of $60,000,000 and the total principal amount of outstanding commercial paper, provided that no commitment fee shall be paid when the amount of outstanding commercial paper exceeds $45,000,000. Should there be a drawing under the letter of credit, Bayou may reimburse the Bank either in immediately available funds or by means of a revolving credit borrowing.

Each promissory note issued to evidence a revolving credit borrowing shall bear interest (computed on the basis of a 365-day year and payable quarterly) on the unpaid principal amount thereof at an interest rate equal to 120 percent of the base rate in effect from time to time. Base rate is the greater of: (A) the Bank's prime rate for 90-day commercial loans to substantial and responsible commercial borrowers, as such rate may change from time to time, or (B) the latest 3-week moving average interest rate payable on 90- to 119-day dealer-placed commercial paper as published weekly by the Federal Reserve Bank of New York.

The aggregate amount of Bayou's revolving credit borrowing and commercial paper at any time outstanding will not exceed the maximum credit limit under the credit agreement.

Louisiana has been advised by Bayou that the Bank will grant participations in the loan arrangements evidenced by the credit agreement to other commercial banks and that the Bank will receive an assignment of the rents and other obligations under the lease as security for, among other things the Bank's letter of credit and its loans under the credit agreement. Bayou has also advised that the Bank will receive a security interest in the nuclear fuel. Louisiana will agree in the lease to acknowledge notice, and agree to the terms, of the assignment. Louisiana further understands from Bayou that Lehman Leasing will guarantee the payment of up to 15 percent of the obligations of Bayou under the credit agreement.

A statement of the fees, commissions, and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that the Louisiana Public Service Commission must either approve or indicate its non-opposition to the proposed transaction. The U.S. Nuclear Regulatory Commission has leasing and regulatory jurisdiction over the ownership, possession, storage, and handling of the nuclear fuel involved in the transaction. It is stated that no other State of Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12889 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 20534; 70-6148]

LOUISIANA POWER & LIGHT CO.

Proposal for Sale of Electric Utility Facilities

MAY 5, 1978.

Notice is hereby given that Louisiana Power & Light Co. ("LP&L"), 142 Delaronde Street, New Orleans, La. 70174, and electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), desig-

nating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

LP&L serves the present electric power requirements of an oil refinery ("Garyville Refinery") located at or near Garyville in St. John the Baptist Parish, La. The Garyville Refinery is owned by Marathon Oil Co. ("Marathon"), a nonaffiliate. The Garyville Refinery is served at 13.8 KV through a 230/13.8 KV substation ("Frisco Substation") which was constructed to serve the Garyville Refinery. Marathon is now proceeding with an expansion of the Garyville Refinery which will add approximately 42 MW to its electric power requirements. Additional substation capacity will be needed to serve this additional load. LP&L states that it is not in a position at this time to commit itself to finance the construction of this additional substation capacity and that it has negotiated for the purchase by Marathon of that part of the Frisco Substation containing the transformation facilities and 13.8 KV switchgear, thereby putting Marathon in a position to effect the necessary expansion of capacity at its own expense as its own project, and thereafter to take service from LP&L at 230 KV. In order to divide ownership of the substation facilities in this manner, it will also be necessary for LP&L to sell Marathon that portion of the existing control house containing the 13.8 KV switchgear and associated relaying, and a portion of the substation site and fencing.

Accordingly, LP&L and Marathon have entered into an agreement dated March 27, 1978, for the sale of such assets, including real property, at its original cost of $1,428,361. To accomodate the proposed division of ownership, certain other items of equipment presently located in that portion of the substation to be retained by LP&L must be relocated and installed in that portion of the substation to be acquired by Marathon. LP&L will be reimbursed by Marathon for the relocation of such items.

LP&L states it anticipates making equipment investments estimated at approximately $44,750 by the time Marathon takes service at 230 KV and an additional amount not exceeding $150,000 by the time the refinery expansion has been completed and Marathon's load has increased by approximately 42 MW. It is stated that such investments will, in effect, be financed by the proceeds of the proposed sales. In any event, Alabama considers these investments relatively minor if the revenues anticipated to result from the increased Marathon load are considered.

LP&L further requests that the 60-day period provided by Rule 24(c)(1) within which the transactions proposed are to be carried out be extended through September 30, 1978.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $6,500, including legal fees estimated at $4,500. Under the terms of the Agreement, these fees and expenses are to be paid by Marathon. No state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such declaration stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations permitted under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12890 Filed 5-11-78; 8:45 am]

[8010-01]

[File No. 81-339]

OLI, INC. AND OLSON LABORATORIES, INC.

Application and Opportunity for Hearing

MAY 5, 1978.

Notice is hereby given that OLI, Inc., formerly known as Olson Laboratories, Inc., has filed an application pursuant to Section 12(h) of the Securities, Exchange Act of 1934, as amended (the "Exchange Act") for an order exempting Olson Laboratories, Inc. ("Olson") from filing the Forms 10-K for the fiscal years ended December 31, 1977 and 1978, the interim Forms 10-Q, and all other reports required under Section 15(d) of the Exchange Act.

OLI, Inc.'s application discloses in part:

(1) On March 2, 1978, the stockholders of Olson approved a Plan of Merger pursuant to which Olson was merged into OLI, Inc., a wholly-owned subsidiary. Approximately 84 percent of the outstanding common stock of Olson was owned by Envirodyne Products Corporation ("Products") which in turn is wholly-owned by Envirodyne Industries, Inc. As a result of this merger Olson is now wholly-owned by Products and no longer has any public stockholders.

(2) In addition to the audited financial statements for the year ended December 31, 1976, the latest available financial statements of Olson, the unaudited financial statements for the period ending September 30, 1977, were included in the proxy statement sent to Olson stockholders in connection with the merger. No financial statements for any subsequent period have been prepared.

(3) On March 21, 1978, Olson sold substantially all of its assets and business to an unaffiliated corporation, Systems Control, Inc. By reason of such sale, Olson no longer has any day to day operations.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than May 30, 1978, may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12892 Filed 5-11-78; 8:45 am]

[8010-01]

[Rel. No. 20529; 70-6156]

PENNSYLVANIA ELECTRIC CO.

Proposed Issuance of First Mortgage Bonds at Competitive Bidding

MAY 3, 1978.

Notice is hereby given that Pennsylvania Electric Co. ("Penelec"), 1001 Broad Street, Johnstown, Pa. 15907, an electric utility subsidiary of General Public Utilities Corp. ("GPU"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Penelec proposes to issue and sell, in accordance with the competitive bidding requirements of Rule 50, up to $60,000,000 principal amount of First Mortgage Bonds ("New Bonds"). The New Bonds are to be issued under the Mortgage and Deed of Trust of Penelec to Bankers Trust Co., as Trustee, dated as of January 1, 1942, as heretofore amended and supplemented and as to be further amended and supplemented by a supplemental indenture creating the New Bonds. The proceeds from the sale are expected to be applied to the payment at or before maturity of up to $60,000,000 of Penelec's $75,000,000 principal amount of short-term bank loans expected to be outstanding at the date of sale of the New Bonds or for construction purposes. Premium, if any, resulting from the sale of the New Bonds will be used for financing the business of Penelec, including the payment of the expenses of this financing.

Penelec estimates the cost of its 1978 construction program to be approximately $115,000,000 (including allowance for funds used during construction) for additions to property in principal categories, and approximate amounts, as follows: Generation, $83,000,000; Transmission, $6,000,000; Distribution, $25,000,000; and other, $1,000,000.

Penelec states that the bidding procedures which it will use with respect to the New Bonds will require (a) that the price specified in the bids shall be not less than 98 percent and not more than 101 percent of the principal amount thereof and (b) that the interest rate to be borne by the New Bonds which shall be specified in the bids shall be a multiple of ⅛ of 1 percent, and will not establish a minimum or maximum interest rate within which bids may be submitted. Penelec further states that prior to June 1, 1983, none of the New Bonds may be redeemed at its option if the funds for such redemption are obtained by Penelec directly or indirectly from or in anticipation of borrowings by or for the account of Penelec at an interest cost (calculated after adjustment, in accordance with generally accepted financial practice, for any premium received or discount granted) less than the annual yield to maturity, calculated to the nearest 1/100 of 1 percent, of the New Bonds based on the interest rate and initial price thereof to the public, except under certain circumstances, in connection with any merger or consolidation to which Penelec may be a party.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $170,000, including $44,000 in legal fees and $15,500 in accountant fees. It is further stated that the fee of counsel for the prospective underwriters will be filed by amendment.

Penelec states that the Pennsylvania Public Utility Commission has jurisdiction with respect to the issuance and sale of the New Bonds. Penelec further states that no other state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposed transaction.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12891 Filed 5-11-78; 8:45 am]

[8010-01]

[Administrative Proceeding File No. 3-5423; File No. 81-343]

BEM HOLDING CORP.

Application and Opportunity for Hearing

MAY 5, 1978.

Notice is hereby given, That BEM Holding Corp. (the "Applicant") has filed an application pursuant to section 12(h) of the Securities Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of section 15(d) of the 1934 Act.

The Applicant states, in part:

1. Applicant has only one stockholder, El Paso Products Co., which is a wholly owned subsidiary of El Paso Natural Gas Co.

2. As of February 27, 1977, Applicant sold substantially all of its operating assets to another corporation and is no longer an operating company.

3. On May 2, 1977, Applicant redeemed all of its outstanding 4¼ percent Convertible Subordinated Debentures due 1990 and 4¼ percent Series A Convertible Subordinated Debentures due 1990.

4. Applicant no longer has any outstanding securites.

Accordingly, Applicant believes that the granting of an exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given, That any interested person not later than May 30, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13019 Filed 5-11-78; 8:45 am]

[8010-01]

[Administrative Proceeding File No. 3-5430; File No. 81-346]

FARRELL LINES, INC. AND AMERICAN EXPORT LINES, INC.

Application and Opportunity for Hearing

MAY 5, 1978.

Notice is hereby given, That Farrell Lines, Inc., successor by merger to American Export Lines, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On March 28, 1978, Applicant was merged into Farrell Lines, Inc. As a result of the merger, there is no longer any market for Applicant's securities.

2. The Applicant has filed its Form 10-Q for the period ended September 30, 1977.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given, That any interested person not later than May 30, 1978, may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13018 Filed 5-11-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1465]

ALABAMA

Declaration of Disaster Loan Area

Monroe County and adjacent counties within the State of Alabama constitute a disaster area as a result of damage caused by tornadoes, strong winds, hail, and rains which occurred on April 18 through April 19, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 6, 1978, and for economic injury until the close of business on February 5, 1978, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Ala. 35205,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12913 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1441; Amdt. No. 4]

CALIFORNIA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 9546), Amendment No. 1 (see 43 FR 12418), Amendment No. 2 (see 43 FR 14196) and Amendment No. 3 (see 43 FR 15378) are amended in accordance with the President's declaration of February 15, 1978, to include Mono County and adjacent counties within the State of California. The Small Business Administration will accept applications for disaster relief loans from disaster victims in Mono County and adjacent counties within the State of California. The filing date for Mono and adjacent counties only is until the close of business on June 29, 1978, for physical damage and until the close of business on January 29, 1979, for economic injury. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12914 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1468]

INDIANA

Declaration of Disaster Loan Area

The listing below of the 3 counties and adjacent counties within the State of Indiana constitutes a disaster area as a result of natural disasters as indicated:

Counties	Natural disaster(s)	Date(s)
Lake	Flooding	Apr. 1 to Apr. 17, 1978.
La Grange	High water and flooding.	Mar. 14 to Mar. 12, 1978.
Starke	Flooding	Mar. 25 to Apr. 8, 1978.

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 6, 1978, and for economic injury until the close of business on February 5, 1979, at:

Small Business Administration, District Office, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Ind. 46204.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12915 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1413; Amdt. No. 6]

KANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 2966), Amendment No. 1 (see 43 FR 4892), Amendment No. 2 (see 43 FR 8603), Amendment No. 3 (see 43 FR 12140), Amendment No. 4 (see 43 FR 16232), and Amendment No. 5 (see 43 FR 19091), are amended by adding the following county:

County	Natural disaster(s)	Date(s)
Barton	Hailstorms.	May 2, and May 28, 1977.

and adjacent counties within the State of Kansas due to natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on August 31, 1978, and for economic injury until the close of business on November 30, 1978.

(Catalog of Federal Domestic Assistanee Program Nos. 59002 and 59008.)

Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12916 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1466]

MISSISSIPPI

Declaration of Disaster Loan Area

Lawrence and Washington Counties and adjacent counties within the State of Mississippi constitute a disaster area as a result of damage caused by tornadoes which occurred on April 17, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 6, 1978, and for economic injury until the close of business on February 5, 1979, at:

Small Business Administration, District Office, Petroleum Building, Room 690, 200 East Pascagoula, Jackson, Miss.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12917 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1453; Amdt. No. 3]

NEBRASKA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 14368), Amendment No. 1 (see 43 FR 16584), Amendment No. 2 (see 43 FR 19092), are amended in accordance with the President's declaration of March 24, 1978, to include Dawson County. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county and adjacent counties within the State. The termination dates for filing applications for physical damage are extended to the close of business on June 26, 1978, and for economic injury the close of business on January 25, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12918 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1460; Amdt. No. 1]

NORTH DAKOTA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 19093) is amended in accordance with the President's declaration of April 17, 1978, to include Oliver County in the State of North Dakota. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county, and adjacent counties within the State. The termination date for filing applications for physical damage is extended to the close of business on June 21, 1978, and for economic injury the close of business on January 29, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12919 Filed 5-11-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-323; Reference: ATF O 1100.85]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 170, MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 170, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel in Bureau Headquarters.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the filing of tax returns and payment of taxes, refund or credit of tax, restamping of packages, redemption of stamps, transfer of Virgin Islands or Puerto Rican spirits from customs custody to internal revenue bond, losses caused by major disasters, wine and wine products rendered unfit for beverage use, manufacture and sale of certain compounds, preparations, and products containing alcohol, and other miscellaneous provisions. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 170, Miscellaneous Regulations Relating to Liquor, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 170, Miscellaneous Regulations Relating to Liquor:

a. To prescribe all forms required by subpart G of 27 CFR Part 170, under 27 CFR 170.154.

b. To approve, pursuant to 27 CFR 250.55, formulas on ATF F 27-B Supplemental (5110.38), Formula and Process for Rectified Products, covering Puerto Rican spirits to be brought into the United States in bulk, under 27 CFR 170.155.

c. To prescribe all forms required by regulations, including applications, claims, records, and reports, under 27 CFR 170.302.

d. To request manufacturers to submit, or to receive from manufacturers, formulas for and samples of products for examination to verify claims of exemption from tax, under 27 CFR 170.613(b).

e. To approve changes of formulas which render products unfit for beverage use, under 27 CFR 170.615.

f. To declare other products to be unfit for use for beverage purposes, under 27 CFR 170.616(b), 27 CFR 170.617(a), and 27 CFR 170.618.

g. To approve formulas and processes described on ATF F 698 Supplemental (5120.29), Formula and Process for Wine, and to require the submission of samples of the matreials used in rendering wine or wine products unfit for beverage use, under 27 CFR 170.686.

4. *Redelegation.* a. The authorities in paragraphs 3a and 3c above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b and 3g above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist (GS-11).

c. The authorities in paragraphs 3d, 3e, and 3f above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the positon of ATF specialist.

Effective date: This order becomes effective on May 2, 1978.

Signed: May 2, 1978.

REX D. DAVIS,
Director.

[FR Doc. 78-12837 Filed 5-11-78; 8:45 am]

[3510-17]

THE WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

ADVISORY COMMITTEE MEETING

Scheduling

The Advisory Committee to the White House Conference on Balanced National Growth and Economic Development will meet on Monday, May 22, 1978 in Room 2010 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C., from 2 p.m. to 5 p.m.

The Committee will be discussing transmittal of the final Conference report to the President which is due to be delivered no later than July 29, 1978.

The meeting will be open to public observation. Approximately 40 seats will be available on a non-reserved basis. Copies of the minutes may be obtained on request thirty days after the meeting.

Inquiries may be addressed to Mr. James Childress, White House Conference on Balanced National Growth and Economic Development, 2001 S Street NW., Washington, D.C. 20009, telephone 202-673-7925.

Dated: May 10, 1978.

MICHAEL S. KOLEDA,
Director, White House Conference on Balanced National Growth and Economic Development.

[FR Doc. 78-13130 Filed 5-11-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 658]

ASSIGNMENT OF HEARINGS

MAY 9, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142268 (Sub 28), Gorski Bulk Transport, Inc., now assigned August 9, 1978 for continued hearing at Washington, D.C. is advanced to August 2, 1978 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

No. MC 116073 (Sub-No. 365), Barrett Mobile Home Transport, Inc., now assigned June 6, 1978, at Elkhart, Ind. is canceled and transfered to Modified Procedure.

MC 66505 (Sub 5), Peerless Stages, Inc., is assigned for hearing June 5, 1978 at San Francisco, Calif. and will be held at 5th Floor room 510 211 Main Street.

MC 141871 (Sub 5), Wni, Inc., is assigned for hearing June 1, 1978 at San Francisco, Calif. and will be held at 5th Floor room 510 211 Main Street.

MC 143178 (Sub 1), Golden State Coaches, Inc., is assigned for hearing June 12, 1978 at Chico, Calif. and will be held at Native Daughters Hall, 965 Salem Street.

MC 143059 (Sub-4), Mercer Transportation Co., & MC 141804 (Sub 95), Western Express, Division of Interstate Rental, Inc., is assigned for hearing May 31, 1978 at San Francisco, Calif., and will be held at 5th Floor, room 510 211 Main Street.

MC 144041, Downs Transportation Co., Inc., now being assigned June 6, 1978 (1 day) at Atlanta, Ga. and will be held in room 305, 1252 West Peachtree Street NW.

MC 99498 (Sub 5), Jimmy Stein Motor Lines, Inc., now assigned June 5, 1978 at Montgomery , Ala., will be held in room 816, Aronov Building, 474 South Court Street.

No. MC 116073 (Sub-No. 86), Barrett Mobile Home Transport, Inc., application dismissed.

MC 130281 (Sub 2), Holiday Travel, Inc., now assigned May 16, 1978 at Eau Claire, Wis. is canceled and transfered to Modified Procedure.

No. MC-C-9820, National Trailer Convoy, Inc. v. Dealers Transit, Inc., now assigned June 26, 1978, at Atlanta, Ga. is canceled.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-13002 Filed 5-11-78; 8:45 am]

[7035-01]

[Exception No. 6 to Revised Service Order No. 1322]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.

Maintaining Car Order and Distribution Report

Pursuant to the authority vested in me by section (f) of Revised Service Order No. 1322, the Atchison, Topeka and Santa Fe Railway Co. is authorized to maintain the car order and distribution report at its regional system car distribution offices in Kansas City, Mo; Amarillo, Tex., and Barstow, Calif. Instead of maintaining such reports separately at each division headquarters regardless of the provisions of section (g)(1) of Revised Service Order No. 1322.

Effective 12:01 a.m., April 18, 1978.

Issued at Washington, D.C., April 18, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-12994 Filed 5-11-78; 8:45 am]

[7035-01]

[Docket No. AB-123]

CHICAGO PRODUCE TERMINAL CO.

Abandonment of Line in Chicago, Cook County, Ill.; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on December 13, 1977, and the decision of the Commission, Division 1, served April 14, 1978, as modified, adopted the report and decision of the Commission, Review Board No. 5, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission discussed in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 I.C.C. 76 (1977), to be born by the Atchison, Topeka, and Santa Fe Railway Co. and the Illinois Central Gulf Railroad Co., in equal amounts or as the two of them may otherwise agree. By letters dated April 18, 1978, and April 27, 1978, respectively, the Commission found that the above-described condition to which authority to abandon the line had been subject has been satisfied and the present and future public convenience and necessity permit the abandonment by the Chicago Produce Terminal Co. of its entire line of railroad, consisting only of a receiving and classification yard and team tract yard, in total length of approximately 1 mile and occupying an area of approximately 101 acres, all in Cook County, Ill. A certificate of abandonment will be issued to the Chicago Produce Terminal Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financially assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line; or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such

abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-13003 Filed 5-11-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 56 under Revised Service Order No. 1252]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting Traffic

To All Railroads:

In the opinion of Joel E. Burns, Agent, the Chicago, Rock Island, and Pacific Railroad Co. is unable to transport promptly all traffic offered for movement over its lines between St. Louis, Mo., and Kansas City, Mo., because of track conditions.

It is ordered, That:

(a) *Rerouting traffic.* The Chicago, Rock Island, and Pacific Railroad Co. being unable to transport promptly all traffic offered for movement over its lines between St. Louis, Mo., and Kansas City, Mo., because of track conditions, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4 p.m., April 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12998 Filed 5-11-78; 8:45 am]

[7035-01]

[Exemption No. 123-A]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To all railroads:

Upon further consideration of Exemption No. 123, issued April 9, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 123 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is vacated.

This exemption shall become effective at 11:59 p.m., April 30, 1978.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12993 Filed 5-11-78; 8:45 am]

[7035-01]

[Amendment No. 1 to Exception No. 3]

ILLINOIS CENTRAL GULF RAILROAD CO.

Exception Under Section (a), Paragraph (6) Corrected Service Order No. 1304

By the Board:

The Illinois Central Gulf derailed and damaged forty-two (42) privately owned jumbo covered hopper cars in a train of 115 such cars in the vicinity of Edgewood, Ill., on April 2, 1978. The railroad has requested authority to substitute thirty-five (35) of its cars for the damaged cars in order to provide time to repair those cars suffering minor damage and to locate and assemble privately owned cars to replace those which cannot be repaired promptly.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, the Illinois Central Gulf Railroad Co. is authorized to operate thirty-five (35) additional jumbo covered hopper cars in unit-grain-train service to replace a like number of privately owned cars damaged in a derailment in the vicinity of Edgewood, Ill., on April 2, 1978, regardless of the provisions of section (a)(1), of section (a)(4)(i) and of section (a)(5).

Effective April 30, 1978.

Expires May 31, 1978.

Issued at Washington, D.C., April 27, 1978.

JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-12997 Filed 5-11-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 3, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination

of any gateway herein described may be filed with the Interstate Commerce Commission by May 22, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a common carrier, by motor vehicles, over irregular routes.

No. MC 5101 (Sub-No. E1) (correction), filed June 4, 1974, and published in the FEDERAL REGISTER issue of July 15, 1975, and republished September 25, 1975, and partially republished, as corrected, this issue. Applicant: SREIN FURNITURE CARRIERS, INC., 2307 Bristol Pike, Craydon, PA 19020. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. (2) *New upholstered furniture,* uncrated, and *parts and materials* used in the manufacture thereof; (a) from points in NJ on and north of NJ Hwy 33 and those points in NY, on and north and east of a line beginning at NY Hwy 7 at the NY-VT State line to Schenectady, NY, then along Interstate Hwy 90 to Utica, NY, then along NY Hwy 12 to Lowville, NY, then along NY Hwy 3 to Fargo, NY, then along NY Hwy 185 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction NY Hwy 87 to Odgensburg, NY, to points in VA and WV (excluding points in WV north of U.S. Hwy 40). The purpose of this filing is to eliminate the gateways of Philadelphia, PA, Hightstown, NJ, and/or Baltimore, MD.

NOTE.—The purpose of this republication is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 40215 (Sub-No. E3) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of March 9, 1978, and partially republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North 5th Street, Salina, KS 67401. Applicant's representative: James F. Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (1)(B) from points in AR on and north of a line beginning at the AR-OK State line, and extending along U.S. Hwy 270, then east on U.S. Hwy 270 to junction U.S. Hwy 79, then northeast along U.S. Hwy 79 to junction U.S. Hwy 49, then east along U.S. Hwy 49 to the AR-MS State line, to points in AZ (Garden City, KS*). (8)(A) From points in AR on and north of a line beginning at the OK-AR State line, and extending along Interstate Hwy 40, then extending east along Interstate Hwy 40 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to the AR-TN State line, to points in NM on and north of a line beginning at the TX-NM State line, and extending U.S. Hwy 380, then southwest along U.S. Hwy 380 to junction U.S. Hwy 70, then west along U.S. Hwy 70 (380) to junction U.S. Hwy 54 to the NM-TX State line (Garden City, KS*). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the territorial description. The remainder of this letter-notice remains as originally published.

No. MC 40215 (Sub-No. E8) (clarification), filed May 17, 1974, published in the FEDERAL REGISTER issue of March 9, 1978, and partially republished, as clarified, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (7)(B) from points in ID to those points in KS on and south and east of a line beginning at the KS-NE State line, and extending along U.S. Hwy 81 (now Interstate Hwy 35), then along U.S. Hwy 81 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction U.S. Hwy 156 (formerly 50N), then along U.S. Hwy 156 to Garden City, KS, then east along U.S. 50 Alternate to U.S. Hwy 81 (now Interstate Hwy 35), to the junction of KS Hwy 99, then along KS Hwy 99 to junction KS Hwy 4, then along KS Hwy 4 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the KS-MO State line. The purpose of this filing is to eliminate the gateway of Wichita, KS.

NOTE.—The purpose of this republication is to clarify the highway changes. The remainder of this letter-notice remains as previously published.

No. MC 40215 (Sub-No. E27), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (1)(A) from points in SD to points in AZ on and south of Interstate Hwy 40; (B) from those points in SD on and east of a line beginning at the ND-SD State line, and extending along SD Hwy 65, then along SD Hwy 65 to junction U.S. Hwy 212, to junction SD Hwy 63, then along SD Hwy 63 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the SD-NE State line (Garden City, KS*). (2) From points in SD to points in AR (points in KS*). (3) From points in SD on and east of a line beginning at the ND-SD State line, and extending along U.S. Hwy 83, then south along U.S. Hwy 83 to the SD-NE State line, to points in CA (Coolidge, KS*). (4) From points in SD on and east of a line beginning at the ND-SD State line, and extending along U.S. Hwy 83 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction U.S. Hwy 183, then along U.S. Hwy 183 to the SD-NE State line, to points in CO (Concordia and/or Garden City, KS*). (5) From points in SD to points in DC (Marysville, KS; Kansas City, MO; Ravenna, OH*). (6) From points in SD on and west and south of a line beginning at the ND-SD State line, and extending along SD Hwy 37, then to junction U.S. Hwy 212, then along U.S. Hwy 212 to the SD-IA State line, to points in IN on and south of a line beginning at the IL-IN State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 150, then east along U.S. Hwy 150 to the IN-KY State line, (Manhattan, KS, Kansas City, MO*). (7) From points in SD to points in KS (points in KS*). (8) From points in SD to points in KY (Kansas City, KS, or Manhattan, KS*). (9) From points in SD to points in LA (points in KS and Kansas City, MO*). (10) From points in SD on and west of a line beginning at the SD-ND State line, and extending along U.S. Hwy 83 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the SD-NE State line, to points in MD (Manhattan, KS; Kansas City, MO; Ravenna, OH*). (11)(A) From points in SD on and west of a line beginning at the ND-SD State line, and extending south along U.S. Hwy 83 to junction U.S. Hwy 14, then east along U.S. Hwy 14 to junction SD Hwy 47, then along SD Hwy 47 to the SD-NE State line, to points in MO; (B) from points in SD to those points in MO on and west and south of a line beginning at the MO-IA State line, and extending along MO Hwy 5 to junction U.S. Hwy 36, then along U.S. Hwy 36 to the MO-IL State line (points in KS*). (12)(A) From points in SD on and east of a line beginning at the NE-SD State line, and extending along U.S. Hwy 83 to the SD-ND State line, to those points in NV on and south of a line beginning at the NV-CA State line, and extending along U.S. Hwy 6 to junction NV Hwy 25 then southeast along NV Hwy 25 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the NV-AZ State line; (B) from points in SD on and east of a line beginning at the NE-SD State line near Tyndall, SD, and extending north along SD Hwy 37 to the SD-ND State line near Hecla, SD, to points in NV on and south and west of a line beginning at the CA-NV State line near Reno, NV, and extending east along U.S.

Hwy 40 to junction U.S. Hwy 95 at Fallon, NV, then south along U.S. Hwy 95 to junction NV Hwy 31 at Hawthorne, NV, then south along NV Hwy 31 to the NV-CA State line (Garden City, KS*). (13) From points in SD to points in NM (Coolidge, KS*). (14) From points in SD to points in NY (Marysville, KS; Kansas City, MO; Ravenna, OH*). (15) From points in SD to points in NC (Manhattan, KS; Kansas City, MO*). (16) From points in SD on and west of a line beginning at the SD-ND State line near Lemmon, SD, and extending south along SD Hwy 73 to the SD-NE State line near Martin, SD to points in OH south of a line beginning at the OH-WV State line at Parkersburg, WV, and extending west along U.S. Hwy 50 to junction OH Hwy 28 at Chillicothe, OH, then west along OH Hwy 28 to junction OH Hwy 73 at Vienna, OH, then north and west along OH Hwy 73 to the OH-IN State line at Ford, OH (Marysville, KS; and Kansas City, MO*). (17) From points in SD to points in OK (points in KS*). (18) From points in SD on and west of a line beginning at the SD-ND State line near Buffalo, SD, and extending south along U.S. Hwy 85 to its intersecting of SD Hwy 70, then south along SD Hwy 79 to junction U.S. Hwy 385 near Hot Springs, SD, then south along U.S. Hwy 385 to the SD-NE State line, to points in PA (Marysville, KS and/or Manhattan, KS; Kansas City, MO, and Ravenna, OH*). (19) From points in SD to points in TN (Kansas City, KS*). (20) From points in SD to points in TX (points in KS*). (21) From points in SD on and east of a line beginning at the SD-ND State line, near Ellendale, ND, and extending south along U.S. Hwy 281 to the SD-NE State line near Pickston, SD, to points in Juab, San Pete, Carbon, Millard, and Kane Counties, UT (Garden City, KS*). (22)(A) From points in SD on and west of a line beginning at the ND-SD State line, and extending along U.S. Hwy 83 to the SD-NE State line near Valentine, NE to points in VA south and east of a line beginning at the Potomac River near Fredericksburg, VA, and extending west along VA Hwy 218 to junction VA Hwy 3 at Fredericksburg, VA, then west along VA Hwy 3 to junction VA Hwy 20, then along VA Hwy 20 to junction VA Hwy 231, at Orange, VA, then south along VA Hwy 231 to junction U.S. Hwy 250, then west along U.S. Hwy 250 to junction U.S. Hwy 225 at Monterey, VA, then south along U.S. Hwy 220 to junction VA Hwy 39 at Warm Springs, VA, then east along VA Hwy 39 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 29 at Amherest, VA, then south along U.S. Hwy 29 to the VA-NC State line; (B) from points in SD to points in VA on and east and south of a line beginning at the VA-NC State line near Franklin, VA, and extending north along U.S. Hwy 258 to junction U.S. Hwy 65, then along U.S. Hwy 65 to Virginia Beach, VA. (Manhattan, KS; Kansas City, MO; Ravenna, OH*). (23) From points in SD on and west and south of a line beginning at the ND-SD State line, and extending south along SD Hwy 37 to junction Interstate Hwy 90 at Mitchell, SD, then east along Interstate Hwy 90 to the SD-MN State line near Sioux Falls, SD, to points in WV (Marysville, KS; Kansas City, MO*). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 61825 (Sub. No. E1249), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in KY to those points in NC on and east of a line beginning at the NC-VA State line, and extending along NC Hwy 8 to junction U.S. Hwy 311, to junction U.S. Hwy 220, to junction U.S. Hwy 74 to junction NC Hwy 38 to the NC-SC State line. The purpose of this filing is to eliminate the gateways of Smyth County, or Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub. No. E1250), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from those points in KY on and north of a line beginning at the KY-VA State line, and extending along U.S. Highway 23 to junction U.S. Hwy 119, to junction KY Hwy 15, to junction KY Hwy 52, to junction KY Hwy 587, to junction U.S. Hwy 421, to junction KY Hwy 89 to junction U.S. Hwy 25, to junction U.S. Hwy 150, to junction KY Hwy 461, to junction KY Hwy 80, to junction U.S. Hwy 68, to junction U.S. Hwy 231, to junction U.S. Hwy 62 to the MO-KY State line at Wickliffe, KY, to those points in SC on and east of a line beginning at the NC-SC State line, and extending along U.S. Hwy 52 to junction SC Hwy 527, to junction SC Hwy 41 to junction U.S. Hwy 521, to junction U.S. Hwy Alternate 17 to the junction of U.S. 17 to the Winyah Bay, then to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of points in Smyth County, VA and Martinsville, VA.

No. MC 61825 (Sub. No. E1251), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods as defined by the Commission, from points in PA on and bounded by a line beginning at NJ-PA State line, and extending along U.S. Hwy 202 to Norristown, PA, then along U.S. Hwy 422 to Harrisburg, PA, then along U.S. Hwy 15 to junction U.S. Hwy Business 15 to the PA-MD State line, then along the PA-MD State line to the PA-DE State line, then along the PA-DE State line to the PA-NJ State line, and then along the PA-NJ State line to the point of beginning, to points in AR, OK and TX and those points in KS west of a line beginning at the MO-KS State line, and extending north to junction U.S. Hwy 160, to junction U.S. Hwy 69, to junction KS Hwy 57, to junction U.S. Hwy 59, to junction U.S. Hwy 54, to junction U.S. Hwy 75, to junction U.S. Hwy 50, to junction KS Hwy 177, to junction U.S. Hwy 24, to junction U.S. Hwy 81 to the NE-KS State line. The purpose of this filing is to eliminate the gateway of Martinsville, VA

No. MC 61825 (Sub-No. E1252), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from those points on and bounded by a line beginning at the NY-PA State line, and extending along U.S. Hwy 15, then south along U.S. Hwy 15 to junction U.S. Hwy 220, to junction PA Hwy 144, to junction U.S. Hwy 322, to junction U.S. Hwy 522, to junction PA Hwy 641, to junction PA Hwy 997, to junction U.S. Hwy 11 to the MD-PA State line, then west along the MD-PA State line to junction U.S. Hwy 219, to junction PA Hwy 403, to junction PA Hwy 580, to junction U.S. Hwy 219, to junction PA Hwy 879, to junction Interstate Hwy 80, to junction PA Hwy 153, to junction PA Hwy 255, to junction PA Hwy 555, to junction PA Hwy 872, to junction PA Hwy 44, to junction PA Hwy 49, to junction PA Hwy 449 to the PA-NY State line, then east along the PA-NY State line to the point of beginning, to those points in OK and TX on and south of a line beginning at the LA-TX State line, and extending along TX Hwy 49, then west along TX Hwy 49 to junction U.S. Hwy 271 to the TX-OK State line, to junction U.S. Hwy 271, to junction U.S. Hwy 70, to junction U.S. Hwy 69 to the TX-OK State line, to junction U.S. Hwy 82, to junction TX Hwy 51, to junction U.S. Hwy 380, to junction U.S. Hwy 83, to junction U.S. Hwy 82 to the NM-TX State line. The purpose of this filing is to eliminate the gateways of Pulaski, and Martinsville, VA.

No. MC 61825 (Sub-No. E1253), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th

Street NW., Washington, DC 20036. *New furniture*, from points in PA on and bounded by a line beginning at the NY-PA State line, and extending along U.S. Hwy 15, to junction U.S. Hwy 220, to junction PA Hwy 144, to junction U.S. Hwy 322, to junction U.S. Hwy 522, to junction PA Hwy 641, to junction PA Hwy 997, to junction U.S. Hwy 11 to the MD-PA State line, to junction U.S. Business Hwy 15, to junction U.S. Hwy 15, to junction Interstate Hwy 81, to junction U.S. Hwy 6, to junction PA Hwy 652, to the NY-PA State line, then along the PA-NY State line to the point of beginning, to points in AR, OK and TX on and south of a line beginning at the TN-AR State line, and extending along to junction Interstate Hwy 40, to junction Interstate Hwy 55, to junction U.S. Hwy 64 to the AR-OK State line, to junction OK Hwy 9, to junction U.S. Hwy 271, to junction OK Hwy 31, to junction OK Hwy 1, to junction OK Hwy 29, to junction U.S. Hwy 81, to junction OK Hwy 7, to junction U.S. Hwy 62 to the TX-OK State line, to junction U.S. Hwy 83, to junction U.S. Hwy 66 to the NM-TX State line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1254), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in PA on and bounded by a line beginning at the NY-PA State line, and extending along PA Hwy 652 to junction U.S. Hwy 6, to junction Interstate Hwy 81, to junction Interstate Hwy 83, to junction U.S. Hwy 422, to junction U.S. Hwy 202 to the PA-NJ State line, to the PA-NY State line to the point of beginning, to points in TX and AR those points in AR and OK on and south of a line beginning at the AR-MO State line at AR Hwy 25 to junction U.S. Hwy 63, to junction U.S. Hwy 62 to the AR-OK State line, to junction U.S. Hwy 62, to junction OK Hwy 16, to junction OK Hwy 33, to junction U.S. Hwy 270, to junction OK Hwy 3, to junction U.S. Hwy 64 to the OK-NM State line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1255), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street, NW., Washington, DC 20036. *New furniture*, from points in PA on and bounded by a line beginning at the MD-PA State line, and extending along U.S. Hwy 219 and extending northeast to junction PA Hwy 403, to junction PA Hwy 580, to junction U.S. Hwy 219, to junction PA Hwy 879, to junction Interstate Hwy 80, to junction PA Hwy 153, to junction PA Hwy 255, to junction PA Hwy 555, to junction PA Hwy 872, to junction PA Hwy 44, to junction PA Hwy 49, junction PA Hwy 449 to the PA-NY State line, then west along the PA-NY State line to junction U.S. Hwy 62, then southwest along U.S. Hwy 62 to junction PA Hwy 36, to junction PA Hwy 66, to junction PA Hwy 28, to junction Interstate Hwy 79, to junction Interstate Hwy 70 to the PA-WV State line to the PA-Md State line, then east along the PA-MD State line to the point of beginning, to those points in TX on and south of a line beginning at the TX-LA State line, and extending along TX Hwy 63, to junction U.S. Hwy 190, to junction U.S. Hwy 59, to junction U.S. Hwy 290, to junction TX Hwy 21, to junction Interstate Hwy 35, to junction U.S. Hwy 90, to junction U.S. Hwy 285, to to junction Interstate Hwy 10 to the US-MX International Boundary line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1256), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, (1) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA on and west of a line beginning at the NM-TX-MX International Boundary line near El Paso, TX, and extending east and north along the NM-TX State line to the NM-OK State line, then along the OK-NM State line to the OK-CO State line, then along OK-CO State line to junction U.S. Hwy 385, then north along U.S. Hwy 385 to junction U.S. Hwy 160, to junction CO Hwy 101, to junction U.S. Hwy 50 to junction Interstate Hwy 25, to junction U.S. Hwy 40 to the CO-UT State line, to junction U.S. Hwy 40 to junction Interstate Hwy 15 to the UT-ID State line, to junction Interstate Hwy 15, to junction U.S. Hwy 26, to junction U.S. Alternate Hwy 93, to junction U.S. Hwy 93 to the ID-MT State line to junction U.S. Hwy 93 to the Canadian-United States International Boundary line, on the one hand, and, on the other, those points in NJ on and northwest of a line beginning at the PA-NJ State line at U.S. Hwy 202, then northwest along U.S. Hwy 202 to the NJ-NY State line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, Lynchburg, Va, and Smyth County, VA.

No. MC 61825 (Sub-No. E1257), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods as defined by the Commission, from points in NJ bounded by a line beginning at the Atlantic Ocean, at NJ Hwy 520 and extending southwest to junction NJ Hwy 34, to junction NJ Hwy 537, to junction NJ Hwy 33, to junction U.S. Hwy 1, to the PA-NJ State line, then north along the PA-NJ State line to junction U.S. Hwy 202, then to the NY-NJ State line, then south along the NY-NJ State line to Raritan Bay, then to the Atlantic Ocean, then south along the NJ coast line to the point of beginning, to points in AZ, CA, CO, ID, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY on and west of a line beginning at the NM-TX-MX International Boundary line near El Paso, TX, and extending east and north along the NM-TX State line to the NM-OK State line, then to the CO-KS State line to the KS-NE State line, then to the NE-MO State line, then along the NE-MO State line to the NE-IA State line, then along the NE-IA State line to junction U.S. Hwy 34 near Union NE, then west along U.S. 34 to junction U.S. Hwy 81 to junction NE Hwy 92, to junction NE Hwy 14, to junction U.S. Hwy 275, to junction U.S. Hwy 281 to the SD-NE State line, to junction U.S. Hwy 18, to junction SD Hwy 47, to junction U.S. Hwy 14, to junction U.S. Hwy 281 to the ND-SD State line, to junction U.S. Hwy 281 to junction ND Hwy 20, to junction ND Hwy 200 to junction ND Hwy 18, to junction U.S. Hwy 2 to the ND-MN State line, then north along the ND-MN State line to the Canadian-United States International Boundary line. The purpose of this filing is to eliminate the gateways of Lynchburg, VA, and Smyth County, VA.

No. MC 61825 (Sub-No. E1258), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods as defined by the Commission: (1) Between points in AZ, CA, CO, ID, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY on, west and south of a line beginning at the NE-IA State line at NE Hwy 2, and extending west to junction NE Hwy 11 to junction U.S. Hwy 20, to junction U.S. Hwy 83 to the NE-SD State line, to junction U.S. Hwy 83, to junction SD Hwy 10, to junction SD Hwy 45 to the SD-ND State line, to junction ND Hwy 3, to junction ND Hwy 34, to junction U.S. Hwy 281, to junction ND Hwy 20, to junction ND Hwy 15, to junction U.S. Hwy 81 to the ND-MN State line at Grand Forks,

ND, then north along the ND-MN State line, to the United States-Canadian International Boundary line, on the one hand, on the other, points in NJ within 15 miles of Newark, NJ including Newark, NJ; (2) between points in NJ within 15 miles of Newark, NJ, including Newark, NJ, on the one hand, and, on the other, points in Origin in (1) above. The purpose of this filing is to eliminate the gateways of (1) Smyth County, VA, Lynchburg, VA, and Baltimore, MD; (2) Baltimore, MD, Lynchburg, VA, and Smyth County, VA.

No. MC 61825 (Sub-No. E1259), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, from those points in NJ on and north of U.S. Hwy 202 to points in AR, KS, OK, and TX on and south of a line beginning at the AR-TN-MO State lines, then along the AR-MO State line to the AR-OK State line, to junction OK Hwy 20, to junction U.S. Hwy 59, then south along U.S. Hwy 59 to junction U.S. Hwy 62, to junction OK Hwy 16, to junction OK Hwy 33, to junction U.S. Hwy 177, to junction U.S. Hwy 64, to junction U.S. Hwy 83 to the OK-KS State line, to junction U.S. Hwy 83, to junction KS Hwy 96 to the KS-CO State line. The purpose of this filing is to eliminate the gateway of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1260), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods, as defined by the Commission, from those points in NJ on, east and south of U.S. Hwy 202 to points in AR, KS, OK, and TX. The purpose of this filing is to eliminate the gateway of Martinsville, VA.

No. MC 61825 (Sub-No. E1269), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, as described in Appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from points in CO, ME, MA, NH, RI, and VT to points in AL. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1270), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, from points in CT, ME, MA, NH, RI, and VT to points in FL, LA and MS. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, Martinsville, VA, and a point in GA.

No. MC 61825 (Sub-No. E1271), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, from points in ME, NH, and VT and points in MA and RI on, north, and east of a line beginning at the NY-MA State line, and extending east along U.S. Hwy 20 to junction U.S. Hwy 7, to junction MA Hwy 9, to junction MA Hwy 8-A, to junction MA Hwy 2, to junction MA Hwy 122, to junction Interstate Hwy 290, to junction MA Hwy 146, to junction Interstate Hwy 95, to junction U.S. Hwy 1, to junction RI Hwy 138 to Newport, RI, and then to the Atlantic Ocean, to Martinsville, VA. The purpose of this filing is to eliminate the gateway of points in Smyth County, VA.

No. MC 61825 (Sub-No. E1272), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in CT, ME, MA, NH, RI, and VT to points in NC and SC on and southwest of a line beginning at the TN-NC State line, and extending southeast along Interstate Hwy 40 to junction U.S. Hwy 25, to junction U.S. Hwy 176, to junction U.S. Hwy 21, and then to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1273), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in ME, MA, NH, RI, and VT and those points in CT on, north and east of a line beginning at the NY-CT State line, and extending east along CT Hwy 4 to junction U.S. Hwy 6, to junction CT Hwy 2, to junction CT Hwy 85 to New London, CT, and then to the Block Island Sound, to points in NC and SC on and bounded by a line beginning at the VA-NC State line, and extending southwest along the Blue Ridge Parkway to junction U.S. Hwy 421, to junction U.S. Hwy 321 to the NC-TN State line, then southwest to junction Interstate Hwy 40, to junction U.S. Hwy 25, to junction U.S. Hwy 176, to junction U.S. Hwy 21, to junction U.S. Hwy 17, to junction SC Hwy 303, to junction U.S. Hwy 15, to junction SC Hwy 261, to junction U.S. Hwy 521 to Charlotte, NC, then along U.S. Hwy 21 to junction NC Hwy 268, to junction U.S. Hwy 601, to junction NC Hwy 103 to the NC-VA State line, and then west to the point of beginning. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1274), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in ME and points in MA, NH, and VT on and north of a line beginning at the NY-MA State line, and extending east along MA Hwy 2 to junction MA Hwy 8, to junction VT Hwy 8, to junction VT Hwy 9, to junction NH Hwy 9, to junction NH Hwy 101, to junction NH Hwy 101-A, to junction U.S. Hwy 3 to Boston, MA, and then to the MA Bay to points in NC and SC on and bounded by a line beginning at the VA-NC State line, and extending south along U.S. Hwy 220 to junction U.S. Hwy 1, to junction U.S. Hwy 52, to junction SC Hwy 7, to junction SC Hwy 171 to Folly Beach, SC, then along the Atlantic Shore to Hunting Island, SC, then along U.S. Hwy 21 to junction U.S. Hwy 17, to junction SC Hwy 303, to junction U.S. Hwy 15, to junction SC Hwy 261, to junction U.S. Hwy 521 to Charlotte, NC, then along U.S. Hwy 21 to junction NC Hwy 268, to junction U.S. Hwy 601, to junction NC Hwy 103 to the NC-VA State line, and then east to the point of beginning. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1275), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in FL to points in ME, NH, and VT on and northeast of a line beginning at Burlington, VT, and extending east along VT Hwy 15 to junction U.S. Hwy 2, to junction VT Hwy 18, to junction NH Hwy 18, to junction U.S. Hwy 302 to Portland, ME, and then to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Pulaski, Martinsville, VA, and Elizabeth City, NC.

No. MC 61825 (Sub-No. E1276), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in FL on and bounded by a line beginning at the GA-FL State line, and extending

south along U.S. Hwy 129 to junction FL Hwy 339, to junction U.S. Hwy 27 Atlernate, to junction U.S. Hwy 27, to junction U.S. Hwy 441, to junction FL Hwy 50 to Titusville, FL, then south along the Atlantic coast to Riviera Beach, FL, then northwest along FL Hwy 710 to junction FL Hwy 70, to junction U.S. Hwy 98, to junction U.S. Hwy 27, to junction FL Hwy 60 to Clearwater, FL, then northwest along the shore of the Gulf of Mexico to Green Point, FL, then north along FL Hwy 65 to junction FL Hwy 12, to junction FL Hwy 20, to junction FL Hwy 71, to junction U.S. Hwy 90, to junction U.S. Hwy 231 to the FL-AL State line, then along the AL-FL State line, to the FL-GA State line, then along the GA-FL State line to the point of beginning, to points in RI and points in CT, ME, MA, NH, and VT on and bounded by a line beginning at the NY-MA State line, and extending west along U.S. Hwy 20 to junction MA Hwy 9, to junction MA Hwy 8, to junction U.S. Hwy 20, to junction Interstate Hwy 91, to junction CT Hwy 190, to junction CT Hwy 32, to junction U.S. Hwy 44, to junction CT Hwy 101, to junction CT Hwy 169, to junction CT Hwy 14-A, to junction CT Hwy 49 to the CT-RI State line, then south to the Block Island Sound, then along the coast of RI, MA, NH, and ME to Portland, ME, then northwest along U.S. Hwy 302 to junction NH Hwy 18, to junction U.S. Hwy 2, to junction VT Hwy 15 to Burlington, VT, then to the VT-NY State line, then south along the NY-VT State line to the NY-MA State line, then along the NY-MA State line to the point of beginning. The purpose of this filing is to eliminate the gateways of Pulaski, Martinsville, VA, and Elizabeth City, NC.

No. MC 78228 (Sub-No. E237) (Correction), filed September 25, 1975, published in the FEDERAL REGISTER issue of January 20, 1978, republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Alloys, ores, and silicon metals,* from points in WV on or north of U.S. Hwy 50 to points in PA on or north and east of a line beginning at the PA-NY State line, then along U.S. Hwy 219 to junction PA Hwy 59, then along PA Hwy 59, to junction U.S. Hwy 6, then along U.S. Hwy 6 to Wellsboro, PA, then along PA Hwy 287, to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction PA Hwy 442, then along PA Hwy 442 to junction PA Hwy 42, then along PA Hwy 42 to Ashland, PA, then along PA Hwy 54 to junction O.S. Hwy 209, then along U.S. Hwy 209 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the PA-NJ State line. The purpose of this filing is to eliminate the gateway of Braddock, PA.

NOTE—The purpose of this correction is to correct the territorial description.

No. MC 107002 (Sub-No. E20) (correction), filed May 20, 1974, published in the FEDERAL REGISTER issue of September 19, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum products,* in bulk, in tank vehicles, from points in Shelby County, TN, to points in FL (points in MS north of U.S. Hwy 80 and Mobile, AL, and points within 10 miles thereof*), NC, SC (points in MS north of U.S. Hwy 80 (except Crupp and Rogerslacy, MS), and Tuscaloosa, AL*), LA (points in MS north of U.S. Hwy 80, and Vicksburg, MS*), and those poinst in TX on and south of a line beginning at the LA-TX State line, and extending along TX Hwy 7 to junction Hwy 79, to junction TX Hwy 95, to junction TX Hwy 29, to junction Interstate Hwy 10, to the TX-NM State line (points in MS north of U.S. Hwy 80, and Natchez, MS*), restricted to the transportation of petroleum products, as defined by the Commission, to points in LA and TX. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the restriction.

No. MC 107002 (Sub-No. E21), filed May 20, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representatives: Harold D. Miller, Jr., P.O. Box 22567, Jackxon, MS 39205 and John J. Borth, P.O. Box 8573 Battlefield Station, Jackson, MS 39204. *Petroleum and petroleum products,* as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, (a) from Helena, AR, to points in AL. (Lula, MS*). (B) from Helena, AR, to points in FL (Lula, MS, or Mobile, AL or Tuscaloosa, AL*). (C) from Helena, AR, to points in GA (Lula, MS and/or Tuscaloosa, AL*). (D) from Helena, AR, to points in MO on, east and south of a line beginning at the AR-MO State line, and extending along U.S. Hwy 65 to Springfield, then along U.S. Hwy 66 to St. James, then along MO Hwy 8 to junction U.S. Hwy 67, then along U.S. Hwy 67 to Farmington, and then along MO Hwy 32 to Ste. Genevieve (Friars Point, MS, the site of the terminal facilities of the OK-MS River Products Line, Inc., near West Memphis, AR, and the site of Southland Oil Co., located in Memphis, TN). (E) from Helena, AR, to points in NC. (Lula, MS and Tuscaloosa, AL*). (F) from Helena, AR, to those points in KY on and east of U.S. Hwy 231 (points in Memphis, TN Commercial zone which extends into MS*). (G) from Helena, AR, to those points in IL on and south of a line beginning at Chester and extending along IL Hwy 150 to junction IL Hwy 154, then along IL Hwy 154 to junction U.S. Hwy 51, then along U.S. Hwy 51 to Ashley, and then along U.S. Hwy 460 to the IL-IN State line (Friars Point, MS; the site of the pipeline terminal of OK-MS River Products Line, Inc., near West Memphis, AR; and the plantsite of Southland Oil Co. at Memphis, TN*). (H) from Helena, AR, to points in TN on and south of U.S. Hwy 50 (points in the Memphis, TN Commercial zone which extends into MS*). (I) from Helena, AR, to those points in LA on, south and east of a line beginning at Logansport and extending along U.S. Hwy 84 to junction U.S. Hwy 165, then along U.S. Hwy 165 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the LA-MS State line (Washington County, MS, and Vicksburg, MS*). (J) From Helena, AR, to Cincinnati, OH, and points in OH within 25 miles thereof (Lakeview, MS*). (K) from Helena, AR, to points in SC (Lula, MS and Tuscaloosa, AL*). (L) from Helena, AR, to points in TN on, north and east of a line beginning at the KY-TN State line, and extending along TN Hwy 5 to junction TN Hwy 22, then along TN Hwy 22 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the TN River, and then along the TN River to the TN-AL State line (Lula, MS or Tuscaloosa, AL, or Friars Point, MS, or the site of the pipeline facilities of the OK-MS River Products Line, Inc., located near West Memphis, AR*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107002 (Sub-No. E75) (Correction), filed May 12, 1974, published in the FEDERAL REGISTER issue of May 21, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Anhydrous ammonia and acids,* in bulk, and *ammonium nitrate, urea, fertilizer and fertilizer ingredients,* which are chemicals, in bulk, from the plant and storage facilities of Arkla Chemical Corp. in Phillips County, AR, to points in MI. The purpose of this filing is to eliminate the gateways of Barfield, AR, and points within 10 miles thereof.

NOTE.—The purpose of this republication is to correct the commodity description.

No. MC 107002 (Sub-No. E215) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER issue of July 22, 1974, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's

representative: John J. Borth (same as above). *Vegetable oil*, in bulk, in tank vehicles, from points in MS west and north of a line beginning at the TN-MS State line, and extending along U.S. Hwy 51 to junction Interstate Hwy 20, then along Interstate Hwy 20 to the MS-LA State line, to points in AR on and east of a line beginning at the AR-TN State line, and extending along Interstate Hwy 55 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the AR-MO State line. The purpose of this filing is to eliminate the gateway of Memphis, TN.

NOTE.—The purpose of this republication is to correct the territorial description.

No. MC 107002 (Sub-No. E218) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER issue of July 22, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum chemicals*, in bulk, in tank vehicles, from points in Adams County, MS, to points in LK, IN, IA, KS on and north of U.S. Hwy 40, KY, MI, MO, on, north, and east of a line beginning at the AR MS State line, and extending along AR Hwy 5 to junction of U.S. Hwy 50, and then along U.S. Hwy 50 to the MO KS State line, OH and WS. Restriction: Restricted against the transportation of dry petrochemicals, to the St. Louis, MO-East St. Louis, IL Commercial zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of Vicksburg, MS, and points within 10 miles of Barfield, AR.

NOTE.—The purpose of this republication is to correct the restriction.

No. MC 107002 (Sub-No. E238), (correction), filed May 12, 1974, published in the FEDERAL REGISTER issue of August 26, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum products*, in bulk, in tank vehicles, from Jacksonville, FL, to points in AR (Jackson County, MS, and Cripp and Rogerslacy, MS*), LA (Jackson County, MS, and Vicksburg, MS*), OK (Jackson and Washington Counties, MS*), TX (Jackson County, MS*), those in MS on, south and west of a line beginning at the AL-MS State line, and extending along MS Hwy 19 to junction MS Hwy 15, then along MS Hwy 15 to junction MS Hwy 9, then along MS Hwy 9 to junction MS Hwy 7, then along MS Hwy 7 to the MS-TN State line (Jackson County, MS*), those in MO on, west and south of a line beginning at the AR-MS State line, and extending along U.S. Hwy 67 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction MO Hwy 34, then along MO Hwy 34 to junction MO Hwy 21, then along MO Hwy 21 to junction MO Hwy 49, then along MO Hwy 49 to junction MO Hwy 19, then along MO Hwy 19 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction MO Hwy 22, then along MO Hwy 22 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the IA MO State line, to those in Choctaw, Mobile and Washington Counties, AL, and those in Shelby County, TN (Jackson County, MS, and points in MS within the Memphis, TN Commercial zone)*, those in Choctaw, Mobile, and Washington Counties, AL (Jackson and Union Counties, MS, and the site of the pipeline terminal of OK MS River Products Co., Inc., near West Memphis, AR*); *petroleum products*, in bulk, in tank vehicles, from Lynn Haven, FL, to points in AR, LA, MS, MO, OK, TX and those in TN on and west of a line beginning at the MS-TN State line, and extending along U.S. Hwy 72 to junction TN Hwy 57, then along TN Hwy 57 to Collerville, then along unnumbered highway to Arlington, then along U.S. Hwy 79 to Brownsville, then along TN Hwy 19 to Ripley, and then along U.S. Hwy 51 to the TN-KY State line, restricted to the transportation of petroleum products described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 to points in AR, TN, and OK and restricted against the transportation of asphalt, points in OK and dry chemicals to points in TX. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the restriction.

No. MC 107002 (Sub-No. E256), (correction), filed July 21, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Liquid fertilizer*, in bulk, in tank vehicles, from Eudora, AR, to points in AL, GA (Vicksburg, MS*), FL (the plant site of Mississippi Chemical Corp. at Yazoo City, MS*), IL, IN, KY, MI, OH (Greenville, MS, and Memphis, TN*), IA (Greenville, MS, and Garfield, AR, and points within 10 miles thereof*), MO (Greenville, MS, and Memphis, TN, or the storage facilities of Allied Chemical Corp. at Pine Bluff, AR*), NC, SC (MS, except Crupp, Rogerslacy, and Zetus, MS, and Fox, AL*), OK, TN, TX (Greenville, MS*), WV (Hamilton, MS, and the plant site of Monsanto Chemical Co., at Anniston, AL*), WI (Greenville, MS, and Garfield, AR, and points within 10 miles thereof)* and those points in AR on and east of a line beginning at the AR MO State line, and extending along AR Hwy 115 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction AR Hwy 1, then along AR Hwy 1 to the White River, then along the White River to the AR MS State line (Greenville, MS, and the storage facilities of Allied Chemical Corp.), restricted against the transportation of anhydrous ammonia to points in AR and restricted against the transportation of fertilizer solutions as described in Appendix XIII, 61 MCC 209. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this republication is to add the State of WI, previously omitted.

No. MC 107002 (Sub-No. E258) (Correction), filed July 21, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Liquid animal and poultry feed ingredients*, in bulk, in tank vehicles, from those points in MS on, west, and south of a line beginning at the MS-TN State line, and extending along Interstate Hwy 55 to junction Interstate Hwy 20, then along Interstate Hwy 20 to the MS AL State line, to points in Lake, Obion, Dyer Lauderdale, Tipton, and Shelby Counties, TN (points in MS within the Memphis, TN, commercial zone*), and those in TN on and east of a line beginning at the TN KY State line and extending along U.S. Hwy 41 Alternate to Clarksville and then along TN Hwy 13 to the TN AL State line (Decatur, AL*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the territorial description of MS, previously omitted.

No. MC 107002 (Sub-No. E265) (Correction), filed July 10, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum and petroleum products*, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, from Friars Point, MS, to those points in IN on and south of U.S. Hwy 50, those in KY on and east of U.S. Hwy 231 the plant site of the OK MS River Products Lines, Inc., near West Memphis AR, and Memphis, TN*), those in TN within 300 miles of West Memphis, AR (the plant site of the OK MS River

Products Lines, Inc., near West Memphis, AR*), and Cincinnati, OH, and points in OH within 25 miles thereof (the site of the OK-MS River Products Lines, Inc., near West Memphis, AR*), and *petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carriers Certificates*, 61 MCC 209, in bulk, in tank vehicles, from Friars Point, MS, to points in MO (the plant site of the OK-MS River Products Lines, Inc., near West Memphis, AR*), and those in IL on and south of a line beginning at Chester and extending along IL Hwy 150 to junction IL Hwy 154, then along IL Hwy 154 to junction U.S. Hwy 51, then along U.S. Hwy 51 to Ashley, and then along U.S. Hwy 460 to the IL-IN State line (the plant site of the OK-MS River Products Lines, Inc., near West Memphis, AR, and the plant site of the Southland Co. at Memphis, TN*); restricted against the transportation of the involved commodities to points in KY within 200 miles of West Memphis, AR, and restricted against the transportation of asphalt to points in IL. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the highway in IN to U.S. Hwy 50.

No. MC 107002 (Sub-No. E270), (correction), filed July 7, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum and petroleum products*, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles; (1) from those points in MS on and bounded by a line beginning at the AL-MS State line, and extending along MS Hwy 19 to Kosciusko, then along MS Hwy 14 to the AL-MS State line, and then along the AL-MS State line to point of beginning, including all points on the designated line, to points in AR. (2) From points in MS bounded by a line beginning at the Al-MS State line, and extending along MS Hwy 14 to junction MS Hwy 12, then along MS Hwy 12 to junction U.S. Hwy 49E, then along U.S. Hwy 49E to junction MS Hwy 8, then along MS Hwy 8 to junction U.S. Hwy 278, then along U.S. Hwy 278 to the Al-MS State line, then along the AL-MS State line to point of beginning, including all points on designated line, to those points in AR north of a line beginning at the TX-AR State line, and extending along U.S. Hwy 67 to Malvern, then along U.S. Hwy 270 to Sheridan, then along U.S. Hwy 167 to Fordyce, then along U.S. Hwy 79 to junction U.S. Hwy 49, then along U.S. Hwy 49 to the AR-MS State line; and (3) from those points in MS north of MS Hwy 8 and U.S. Hwy 278 to points in AR, restricted against the transportation of liquefied petroleum gases. The purpose of this filing is to eliminate the gateways of Washington and Union Counties, MS, Crupp and Friars Point, MS, and Memphis, TN.

NOTE.—The purpose of this republication is to correct the territorial description.

No. MC 107012 (Sub-No. E343), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated*, from points in MT to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (Greene County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (points in IL within the Burlington, IA commercial zone*); Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK (Kansas City, MO*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107012 (Sub-No. E344), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated*, from points in Arthur, Blaine, Boyd, Brown, Buffalo, Cherry, Custer, Garfield, Grant, Greeley, Hall, Holt, Hooker, Howard, Keyapana, Lawson, Logan, Loup, McPherson, Rock, Sherman, Thomas, Valley, Wheeler, Box Butte, Dawes, Sheridan, Sioux, Chase, Dundy, Franklin, Frontier, Furnas, Gosper, Harlan, Hayes, Hitchcock, Kearney, Keith, Lincoln, Perkins, Phelps, Redwillow, Antelope, Boone, Burt, Butler, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Knox, Madison, Merrick, Pierce, Platte, Polk, Stanton, Thurston, Vance, Washington, Wayne, Banner, Cheyenne, Deuel, Garden, Kimball, Morrill, and Scotts Bluff Counties, NE, to Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA. The purpose of this filing is to eliminate the gateway of points in IL within the Burlington, IA commercial zone.

No. MC 107012 (Sub-No. E345), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated*: (1) From points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie, and Williams Counties, NC, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (Green County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (points in IL within the Burlington, IA Commercial zone); Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, OK (Kansas City, MO*); points in SC (Greene County, AR*); (2) from points in Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, and Traill Counties, ND, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun,

Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (Greene County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington, Counties, IA (points in IL within the Burlington, IA commercial zone*); points in OK (Kansas City, MO*); Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg, Abbeville, Anderson, Greenville, Ocomee, and Pickens Counties, SC (Greene County, AR*); and (3) from points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, and Wells Counties, ND, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (Greene County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (points in IL within the Burlington, IA commercial zone*); Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Ouachita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, OK (Kansas City, MO*); points in SC (Greene County, AR*). The purpose of this filing is to eliminate the gateway indicated by asterisks above.

No. MC 107012 (Sub-No. E346), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated:* (1) From points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, and Socorro Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (points in IL within the Burlington, IA commercial zone*); Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, and Woodson Counties, KS (points in AR*); Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, and Wright Counties, MN (points in IL within the Burlington, IA commercial zone*); and (2) from points in McKinley, Rio Arriba, and San Juan Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, and ???.

No. MC 107515 (Sub-No. E1508), filed May 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Road, Northeast, Atlanta, GA 30326. (1) *Fresh and cured meats, and such commodities* as are classified as dairy products in the Appendix to the report in *Modification of Permits—Packing House Products*, 46 MCC 23, and *frozen foods*, from points in AL on, south or east of a line beginning at the GA-AL State line, and extending along U.S. Hwy 78 to junction AL Hwy 21, then along AL Hwy 21 to junction Alternate U.S. Hwy 231, then along Alternate U.S. Hwy 231 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction Interstate Hwy 65, then along Interstate Hwy 65 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the AL-MS State line to (A) points in MN and MI, (B) to points in WS on and north of a line beginning at the IA-WI State line, and extending along WI Hwy 171 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction WI Hwy 130, then along WI Hwy 130 to junction WI Hwy 23, then along WI Hwy 23 to WI Hwy 11, then along WI Hwy 11 to junction WI Hwy 78, then along WI Hwy 78 to the WI-IL State line, (C) to those points in OH on and north of a line beginning at the IN-OH State line, and extending along U.S. Hwy 35 to junction U.S. Hwy 42, then along U.S. Hwy 42 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the OH-PA State line, (D) to those points in IN on and north of a line beginning at the OH-IN State line, and extending along U.S. Hwy 40 to junction U.S. Hwy 52, then along U.S. Hwy 52 to the IL-IN State line, (E) to those points in IL on, north or east of a line beginning at the IN-IL State line, and extending along U.S. Hwy 52 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 20, then along U.S. Hwy 20 to IL Hwy 26, then along IL Hwy 26 to the IL-WI State line. (2) *Bananas*, from Mobile, AL, to points named in (1) above, (3) *canned vegetables*, from Uniontown, AL, to points named in (1) above, (4) *frozen foods, fresh and cured meats and dairy products*, from points in MS on, south and east of a line beginning at the AL-MS State line, and extending along U.S. Hwy 80 to junction Interstate Hwy 59, then along Interstate Hwy 59 to MS-LA State line, to points in the lower peninsula of MI and to those points in OH on and north of Interstate Hwy 90, (5) *bananas*, from Gulfport, MS, to the territory in (4) above. The purpose of this filing is to eliminate the gateways of Atlanta, GA, and Louisville, KY.

No. MC 107515 (Sub-No. E533), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Road, Northeast, Atlanta, GA 30326. *Frozen foods:* (1) From Englewood, OH, to points in WA, OR, ID, CA, UT, NV, AZ, NM and those points in CO on, south and west of a line beginning at the CO-NM State line, and extending along Interstate Hwy 25 to CO Springs, then along U.S. Hwy 24 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction CO Hwy 789 to CO-WY State line, those points in WY on, south and west of a line beginning at the WY-CO State line, and extending along WY Hwy 789 to junction Interstate 80, then along Interstate Hwy 80 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction U.S. Hwy 287, then along U.S. Hwy 287 to Lander, then

along WY Hwy 789 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the WY-MT State line, and those points in MT on and west of a line beginning at the MT-WY State line, and extending along U.S. Hwy 310 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to Great Falls, then along Interstate Hwy 15 to the International Boundary line between US and CD; (2) from Tiffin, OH, to points to OR, CA, NV, UT, AZ, NM and those points in CO on, south and west of a line beginning at the CO-NM State line, and extending along U.S. Hwy 85 to Denver, CO, then along U.S. Hwy 40 to Craig, then along CO Hwy 13 to the CO-WY State line, Bozeman and Butte, MT, points in ID (except points north of U.S. Hwy 12, and except points in ID County east of U.S. Hwy 95); and those points in WA on and west of a line beginning at the ID-WA State line, and extending along U.S. Hwy 195 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the International Boundary line between the United States and Canada. Restriction: Operations authorized herein are restricted to the transportation of shipments originating at the plantsite of Evelyn Sprague, Inc., at Englewood, OH, and Fry Foods, at Tiffin, OH. The purpose of this filing is to eliminate the gateway of points in TN.

No. MC 107515 (Sub-No. E536), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Road, Northeast, Atlanta, GA 30326. *Fresh and cured meats:* (1) From San Francisco and San Jose, CA, to those points In MS on, south and east of a line beginning at the LA-MS State line, and extending along Interstate Hwy 59 to Laurel, then along MS Hwy 45 to the MS-TN State line, all points in AL, and points in TN on and east of U.S. Hwy 45 and U.S. Hwy 25E; (2) from Los Angeles, CA, to points to AL, those points in MS on and east of U.S. Hwy 45 and on or north of U.S. Hwy 82, points in TN on, south and east of a line beginning at the TN-MS State line, and extending along TN Hwy 22 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction TN Hwy 13, then along TN Hwy 13 to junction U.S. Hwy 79, then along U.S. Hwy 79 to the TN-KY State line. The purpose of this filing is to eliminate the gateway of Columbus or Carrollton, GA.

No. MC 113855 (Sub-No. E420), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Signs, sign parts, and sign accessories,* which are metal or metal articles, (1) from points in WA and OR (except points in Douglas, Klamath, Lake, Coos, Curry, Josephine, and Jackson Counties, OR) to points in NM, CO and AZ (except points in Yuma County, AZ). The purpose of this filing is to eliminate the gateway of Clearfield, UT. (2)(a) from points in CA north of Monterey, San Benito, Fresno and Inyo Counties, to points in CO: (b) from points in CA in and south of Moneterey, San Benito, Fresno and Inyo counties, to points in CO on and north of U.S. Hwy 24; (c) from points in CA north of Alameda, San Joaquin, Calaveras, and Alpine Counties, to points in NM north and east of a line beginning at the NM-AZ State line, and extending along U.S. Hwy 60 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the US-MX International Boundary line. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (3) from points in ID to points in AZ, CO and NM. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (4)(a) from points in NV on and north of U.S Hwy 6 to points in CO; (b) from points in NV south of U.S. Hwy 6 to points in Co on, north and east of a line beginning at the CO-UT State line, and extending along U.S. Hwy 40 to junction Interstate Hwy 25, then along Interstate Hwy 25 to junction U.S. Hwy 50 to the CO-KS State line; (c) from points in NV to points in WY and MT. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (5) from points in WI, IA, MI, OH, PA, DE, NJ, NY, MD, CT, RI, MA, DC, points in IL on and north of IL Hwy 9, points in IN on and north of IN Hwy 26, points in WV on, north and east of U.S. Hwy 60, and points in VA on and north of U.S. Hwy 60 and on and east of U.S. Hwy 29, to points in AZ on, west and north of a line beginning at the UT-AZ State line, and extending along U.S. Hwy 89 to junction Interstate Hwy 17, then along Interstate Hwy 17 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the AZ-CA State line. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (6) from points in ND to points in AZ (except points in Cochise County). The purpose of this filing is to eliminate the gateways of SD and Clearfield, UT. (7) from points in SD to points in AZ on, north and east of a line beginning at the AZ-NM State line, and extending along U.S. Hwy 66 to junction AZ Hwy 77, then along AZ Hwy 77 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the US-MX International Boundary line. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (8) from points in MN to points in AZ on, west and north of a line beginning at the UT-AZ State line, and extending along U.S. HWy 89 to junction Interstate Hwy 17, then along Interstate Hwy 17 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the AZ-CA State line (points in MN within 50 miles of Sioux Falls, SD). The purpose of this filing is to eliminate the gateways of SD and Clearfield, UT.

No. MC 113855 (Sub-No. E421), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Irrigation systems, and parts for irrigation systems,* which are metal or metal articles (except those commodities which because of size or weight, would require the use of special equipment to load, unload, or transport), (1) (a) from points in CA south of Santa Cruz, San Benito, Fresno, and Mono Counties to points in KS on, east and north of a line beginning at the KS-NE State line, and extending along U.S. Hwy 75 to junction KS Hwy 68, then along KS Hwy 68 to the KS-MO State line; (b) from points in CA in and north of Santa Cruz, San Benito, Fresno, and Mono Counties, to points in KS on and east of U.S. Hwy 81 except points in Summer, Cowley, Sedwick, and Butler Counties; (c) from points in CA on and north of a line beginning at the Pacific Ocean and extending along CA Hwy 20 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the CA-NV State line, to points in OK on and east of Interstate Hwy 35, points in TX on and east of U.S. Hwy 77, and points in LA; (d) from points in CA in and north of Santa Cruz, Santa Clara, Stanislaus, Tuolumne, and Alpine Counties to points in AR; (e) from points in CA on and north of Interstate Hwy 80 to points in LA (except points in Calcasieu, Cameron, and Jefferson Davis Counties); (f) from points in UT (except points in Grand and San Juan Counties), to points in KS on and east of U.S. Hwy 75. The purpose of this filing is to eliminate the gateway of Douglas County, NE (except Omaha and points in its commercial zone). (2) (a) from points in SD to points in OK on and east of U.S. Hwy 81, points in AR, LA, and points in TX on and east of U.S. Hwy 83; (b) from points in SD on and east of U.S. Hwy 281 to points in NM and AZ. The purpose of this filing is to eliminate the gateway of Douglas County, NE (except Omaha and points in its commercial zone). (3) (a) from points in WI south of WI Hwy 60 to points in TX on and west of U.S. Hwy 281, points in KS on and west of U.S. Hwy 77, points in OK on and west of Interstate Hwy 35, and points in AZ and NM; (b) from points in WI on and north of WI Hwy 60 to

points in OK and TX; (c) from points in IL on and north of U.S. Hwy 6 to points in KS, OK, and TX on and west of U.S. Hwy 83, and points in NM; (d) from points in IL on and north of U.S. Hwy 40 and west of U.S. Hwy 67, to points in AZ; (e) from points in IN on and north of U.S. Hwy 30, to points in KS on and west of U.S. Hwy 281; (f) from points in IN on and north of Interstate Hwy 74, to points in AZ and NM. The purpose of this filing is to eliminate the gateways of SD and Douglas County, NE (except Omaha and points in its commercial zone). (4) (a) from points in OH on and north of U.S. Hwy 224 to points in KS on and west of U.S. Hwy 281 and points in NM; (b) from points in OH to points in AZ; (c) from points in PA to points in KS on and west of U.S. Hwy 183, points in OK on and west of U.S. Hwy 83, and points in NM and TX; (d) from points in PA on and east of U.S. Hwy 219 to points in TX on and west of U.S. Hwy 83. The purpose of this filing is to eliminate the gateways of SD and Douglas County, NE (except Omaha and points in its commercial zone). (5) (a) from points in MT to points in AR, LA, points in OK on and east of U.S. Hwy 281, and points in TX on and east of a line beginning at the US-MX International Boundary line, extending along U.S. Hwy 81 to junction U.S. Hwy 281, then along U.S. Hwy 281 to the TX-OK State line; (b) from points in WY on and north of U.S. Hwy 26, to points in AR and LA. The purpose of this filing is to eliminate the gateways of SD east of the MO River and Douglas County, NE (except Omaha and points in its commercial zone). (6) (a) from points in WA to points in KS on and east of U.S. Hwy 81; (b) from points in WA on and west of U.S. Hwy 97 and points in OR to points in KS on and east of U.S. Hwy 281; (c) from points in WA to points in OK and TX on and east of Interstate Hwy 35, and points in AR and LA. The purpose of this filing is to eliminate the gateways of UT and Douglas County, NE (except Omaha and points in its commercial zone).

No. MC 113855 (Sub-No. E422), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Aluminum pipe* (except oilfield pipe as described in Mercer Extension—Oil Field Commodities, 74 MCC 459), (A)(1) from points in MN, to points in AZ, NM, TX and points in OK west of U.S. Hwy 75; (2) from points in MN on and west of U.S. Hwy 71, to points in LA; (3) from points in IA on and north of U.S. Hwy 20, to points in OK on and west of Interstate Hwy 35 and points in TX; (4) from points in IA, to points in NM and AZ; (5) from points in WI on and north of WI Hwy 60, to points in TX and points in OK on and west of Interstate Hwy 35; (6) from points in WI to points in NM, AZ and CO; (7) from points in WI on and north of U.S. Hwy 10, to points in KS on and west of U.S. Hwy 81; (8) from points in IL on and north of U.S. Hwy 36, to points in AZ (except Apache, Greenlee and Graham Counties); (9) from points in IL on and north of IL Hwy 9, to points in NM; (10) from points in IN to points in AZ (except Navajo, Apache, Greenlee, Graham and Cochise Counties); (11) from points in IN on and north of IN Hwy 26, to points in NM; (12) from points in MI to points in AZ, points in OK on and west of U.S. Hwy 283, points in KS on and west of U.S. Hwy 281, and points in TX on and north of U.S. Hwy 80 and on and west of U.S. Hwy 87; (13) from points in the Upper Peninsula of MI to points in TX and OK; (14) from points in PA to points in AZ, NM, points in OK on and west of U.S. Hwy 83 and points in TX on and west of U.S. Hwy 277; (15) from points in OH to points in AZ, points in NM on and west of Interstate Hwy 25 and points in OK on and west of U.S. Hwy 83; (16) from points in OH on and north of U.S. Hwy 36 to points in NM east of Interstate Hwy 25. The purpose of this filing is to eliminate the gateways of SD and Hall County, NE. (B)(1) from points in NY (except in Niagara, Erie, Cattaraugus, and Chautauqua Counties), to points in AZ; (2) from points in NY east of Cayuga, Tomkins and Tioga Counties), to points in NM. The purpose of this filing is to eliminate the gateways of Scranton, PA, SD and Grand Island, NE. (C)(1) from points in MA, CT, RI and NJ, to points in AZ, NM and points in TX on and west of U.S. Hwy 83. The purpose of this filing is to eliminate the gateways of Eastern PA, SD and Grand Island, NE.

No. MC 113855 (Sub-No. E424), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles*, (a) between points in WI, on the one hand, and, on the other, points in KS on and west of U.S. Hwy 77, (b) between points in WI on and north of a line beginning at Sheboygan, WI, and extending along WI Hwy 23 to junction Interstate Hwy 90, then along Interstate Hwy 90 to the WI-MN State line, on the one hand, and, on the other, points in KS east of U.S. Hwy 77 and on and west of U.S. Hwy 75, and (c) between points in WI on and north of U.S. Hwy 8, on the one hand, and, on the other, points in KS east of U.S. Hwy 75. The purpose of this filing is to eliminate the gateways of points in MN within 15 miles of the MN-IA State line, and points in SD.

No. MC 114552 (Sub-No. E132) (Correction), filed August 25, 1975, published in the FEDERAL REGISTER issue of March 29, 1978, and republished, as corrected, this issue. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, VA 22210. *Gypsum and gypsum products, composition board, urethane and urethane products, and such insulation materials and roofing and roofing materials and supplies* as are useful in the manufacture and distribution of roofing and roofing materials (except in bulk), from those points in NC, on and south of a line beginning at the Pamlico River, then extending along U.S. Hwy 264 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the NC-SC State line, to points in D.C. The purpose of this filing is to eliminate the gateway of points in Wayne County, NC.

NOTE.—The purpose of this republication is to add the gateway that was omitted in the previous publication.

No. MC 117574 (Sub-No. E106), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's respresentative: William A Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Boilers, water purifying, and water conditioning equipment and materials*, (2) *accessories and supplies* used in the shipping and installation of the commodities described above when moving in connection with the commodities (3) *industrial and processing machinery*, and (4) *attachments, accessories and parts* of all of the above described commodities, from Lancaster, PA, to points in the States of CA, ID, MT, NV, ND, OR, SD, UT, WA, and WY. Restriction: The transportation of the above described commodities, which because of size or weight, do not require the use of special equipment, is limited to the movement then in the same vehicle or vehicles as part of which because of size or weight do require the use of special equipment. The purpose of this filing is to eliminate the gateways of Carlisle, PA and Waynesboro, PA.

No MC 117574 (Sub-No. E107), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Air, water, and gas cooling and heating equipment* and (2) *materials, accessories and supplies* used in the installation thereof, (3) *industrial and processing machinery and attachments*, (4) *accessories and parts* of all of the above described commodities which because of size or weight require the use of special equipment and (5) *commodities*

listed in (1) above which do not require the use of special equipment when moving in the same vehicle or as part of the same shipment with commodities in (1) above, between Lebanon, PA, on the one hand, and, on the other, points in the States of CA, ID, MT, MV, ND, OR, SD, UT, WA, and WY. The purpose of this filing is to eliminate the gateway of Carlisle, PA.

No. MC 117574 (Sub. No. E108), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chestnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, and* (2) *attachments, accessories and parts of all of the above described commodities, which are also heavy machinery, building and contractor's equipment, materials and supplies* which because of size or weight require the use of special equipment, (1) between points in the PA counties of Carbon and Monroe, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY and points in the following described states; points in MD in and west of the counties of Frederick and Montgomery; points in MI, except those in the counties of Lenawee and Monroe; points in NC on and west of a line commencing at the NC-VA State line on NC Hwy 32, then along NC Hwy 32 to junction with the Albemarle Sound, and then along the south shore of the Albemarle Sound to the Pamlico Sound and the Atlantic Ocean; points in OH on and south of a line commencing at the MI-OH State line on OH Hwy 15, then along OH Hwy 15 to junction U.S. Hwy 23, then along U.S Hwy 23 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction OH Hwy 39, then along OH Hwy 39 to junction OH Hwy 83, then along OH Hwy 83 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the OH-WV State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction VA Hwy 32, then along VA Hwy 32 to the NC-VA State line; points in WV on and south of U.S. Hwy 40. (2) between points in the PA counties of Pike and Wayne, on the one hand, and, on the other, points in the following states; AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, ND, NM, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY and points in the following described states; points in MD in and west of the counties of Frederick and Montgomery; points in MI on, north and west of a line commencing at the IN-MI State line on MI Hwy 66, then along MI Hwy 66 to junction MI Hwy 46, then along MI Hwy 46 to the shore of Lake Huron; points in NC on and west of a line commencing at the NC-VA State line on NC Hwy 32, then along NC Hwy 32 to the Albemarle Sound, then along the south shore of the Albemarle Sound to the Pamlico Sound and the Atlantic Ocean; points in OH on and south of a line commencing at the IN-OH State line on OH Hwy 34, then along OH Hwy 34 to junction OH Hwy 15, then along OH Hwy 15 to junction OH Hwy 65, then along OH Hwy 65 to junction U.S. Hwy 30S, then along U.S. Hwy 30S to junction OH Hwy 95, then along OH Hwy 95 to junction OH Hwy 13, then along OH Hwy 13 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the OH-WV State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction VA Hwy 32, then along VA Hwy 32 to the NC-VA State line; points in WV on and south of U.S. Hwy 40. (3) between points in the PA county of Columbia, and those in the PA counties of Lycoming, Montour, Northumberland, east of a line commencing at the PA-MD State line near New Freedom, PA, on PA Hwy 851, then along PA Hwy 851 to junction Interstate Hwy 83, then along Interstate Hwy 83 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction PA Hwy 147, then along PA Hwy 147 to U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 6, then along OH Hwy 6 to PA Hwy 14, then along PA Hwy 14 to the NY-PA State line near South Waverly, PA, on on the one hand, and, on the other, all points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY and points in the following described states; points in IN on south of a line commencing at the IN-OH State line on U.S. Hwy 35, then along U.S. Hwy 35 to junction U.S. Hwy 30,then along U.S. Hwy 30 to the IL-IN State line; points in MI on and north of MI Hwy 55; points in OH on and south of U.S. Hwy 35; points in VA on and south of a line commencing at the VA-WV State line on U.S. Hwy. 250, then along U.S. Hwy 250 to junction Interstate Hwy 64, then along Interstate Hwy. 64 to the Chesapeake Bay; points in WV on and south of a line commencing at the WV-VA State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction WV Hwy 42, then along WV Hwy 42 to junction WV Hwy 39, then along WV Hwy 39 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the OH-WV State line. The purpose of this filing is to eliminate the gateways of Waynesboro, PA, and a point on Interstate Hwy 83 near Shrewsbury, PA, just north of the MD-PA State line within the 25 mile radius of Baltimore, MD, and located in York County, PA.

No. MC 117574 (Sub. No. E109), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chestnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, and* (2) *attachments, accessories and parts of all of the above described commodities, which are also heavy machinery, building and contractor's equipment, materials and supplies* which because of size or weight require the use of special equipment, (1) between points in PA counties of Bucks, Montgomery, and Philadelphia on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY, and points in the following described states; points in OH on and west of a line commencing at Lake Erie on OH Hwy 46, then along OH Hwy 46 to its junction OH Hwy 11, then along OH Hwy 11 to junction OH Hwy 82, then along OH Hwy 82 to junction OH Hwy 193, then along OH Hwy 193 to junction with U.S. Hwy 422, then along U.S. Hwy 412 to the OH-PA State line; points in PA on and south of a line commencing at the OH-PA State line on U.S. Hwy 422, then along U.S. Hwy 422 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction PA Hwy 16, then along PA Hwy 16 to junction Interstate Hwy 81, then along Interstate Hwy 81 to MD-PA State line; points in MD in and west of Frederick County; points in NC on and west a line commencing at the NC-VA State line on NC Hwy 86, then along NC Hwy 86 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 422, then along U.S. Hwy 422 to the Atlantic Ocean; points in VA on and west of a line commencing at the VA-WV-MD State lines on U.S. Hwy 50, then along U.S. Hwy 50 to junction VA Hwy 7, then along VA Hwy 7 to junction with U.S. Hwy 340, then along U.S. Hwy 340 to junction U.S. Hwy 211, then along U.S. Hwy 211 to Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 501, then along U.S. Hwy 501 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the NC-VA State line; (2) between points

in PA counties of Chester and Delaware, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY and points in the following described states: points in MD in and west of a line commencing at the NC-VA State line on U.S. Hwy 501, then along U.S. Hwy 501 to junction with U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction NC Hwy 50, then along NC Hwy 50 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the Atlantic Ocean; points in OH on and west of a line beginning at Lake Erie on OH Hwy 46, then along OH Hwy 46 to junction OH Hwy 11, then OH Hwy 11 to junction OH Hwy 82, then along OH Hwy 82 to junction OH Hwy 193, then along OH Hwy 193 to junction U.S. Hwy 422, then along U.S. Hwy 422 to the OH-PA State line; points in PA on and south of a line commencing at the OH-PA State line on U.S. Hwy 422 , then along U.S. Hwy 422 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction PA Hwy 16, then along PA Hwy 16 to junction U.S. Hwy 11, then along U.S. Hwy 11 to the MD-PA State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to VA Hwy 7, then along VA Hwy 7 to junction U.S. Hwy 340, then along U.S. Hwy 340 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 250 Bypass, then along U.S. Hwy 250 Bypass easterly around Charlottesville, VA, to junction VA Hwy 20, then along VA Hwy 20 to junction U.S. Hwy 15, then along U.S. Hwy 15 to NC-VA State line. (3) between the PA counties of Lehigh and Northampton, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY, and points in the following described states: points in MD in and west of Washington County; points in NC on and west of a line commencing at the NC-VA State line on U.S. Hwy 13, then along U.S. Hwy 13 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction with the Neuse River, then along the southern bank of the Neuse River to junction with the Pamlico Sound and the Atlantic Ocean; points in OH on and west of a line commencing at Cleveland, OH, on OH Hwy 14, then along OH Hwy 14 to the OH-PA State line; points in PA on and south of a line commencing at the OH-PA State line on PA Hwy 51, then along PA Hwy 51 to junction PA Hwy 856, then along PA Hwy 856 to junction U.S. Hwy 19, then along U.S. Hwy 19 to Interstate Hwy 76, then along Interstate Hwy 76 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction PA Hwy 16, then along PA Hwy 16 to junction U.S. Hwy 11, then along U.S. Hwy 11 to the MD-PA State line; points in VA on and west of a line commencing at the MD-VA State line on VA Hwy 15, then along VA Hwy 15, to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction VA Hwy 35, then along VA Hwy 35 to junction U.S. Hwy 58, then along U.S. Hwy 58 to junction VA Hwy Legislative Route 653, then along VA Legislative Route 653 to the NC-VA State line.

(4) Between points in the PA counties of Berks and Schuylkill, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, MV, NM, ND, OK, OR, SC, SD, TN, UT, WA, WI, WY, and points in the following described states; points in MD in and west of Washington County; all points in MI on, west and north of a line commencing at the MI-OH State line on U.S. Hwy 127, then along U.S. Hwy 127 to junction Interstate Hwy 94, then along Interstate Hwy 94 to junction U.S. Hwy 12, then along U.S. Hwy 12 to the Detroit River; points in NC on and west of a line commencing at the NC-VA State line on U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 401, then along U.S. Hwy 401 to junction NC Hwy 58, then along NC Hwy 58 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 13, then along U.S. Hwy 13 to junction NC Hwy 33, then along NC Hwy 33 to the north bank of the Pamlico River, then along the Pamlico River to the Pamlico Sound and the Atlantic Ocean; points in OH on, south, and west of a line commencing at the OH-WV State line on Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction OH Hwy 209, then along OH Hwy 209 to junction OH Hwy 83, then along OH Hwy 83 to junction OH Hwy 16, then along OH Hwy 16 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction OH Hwy 13, then along OH Hwy 13 to junction OH Hwy 19, then along OH Hwy 19 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction OH Hwy 15, then along OH Hwy 15 to the MI-OH State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction Legislative VA Route 609, then along VA Legislative Route 609 to junction U.S. Hwy 360, then along U.S. Hwy 360 to junction VA Legislative Route 614, then along VA Legislative Route 614 to junction VA Legislative Route 625, then along VA Legislative Route 625 to junction VA Hwy 40, then along VA Hwy 40 to junction VA Hwy 138, then along VA Hwy 138 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-VA State line; points in WV on and south of a line commencing at the OH-WV State line on U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the PA-WV State line.

(5) Between points in the PA counties of Lancaster and Lebanon, and those points in the counties of Dauphin and York on and east of a line beginning at the MD-PA State line near New Freedom, PA, and extending north on PA Hwy 851, then along PA Hwy 851 to junction Interstate Hwy 83, then along Interstate Hwy 83 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction PA Hwy 147, then along PA Hwy 147 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 6, then along U.S. Hwy 6 to PA Hwy 14, north to the NY-PA State line near South Waverly, PA, on the one hand, and, on the other, all points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY, and points in the following described states; points in OH on and west of a line commencing at the shore of Lake Erie, Sandusky, OH, then along U.S. Hwy 250 to the OH-WV State line; points in VA on, south and west of a line commencing at the VA-WV State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction VA Legislative Route 622, then along VA Legislative Route 622 to junction VA Legislative Route 604, then along VA Legislative Route 604 to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction U.S. Hwy 60 at the Chesapeake Bay; points in WV on and west of U.S. Hwy 250. The purpose of this filing is to eliminate the gateways of Waynesboro, PA, and points on Interstate Hwy 83, near Shrewsbury, PA, just north of the MD-PA State line within the 25-mile radius of Baltimore, MD located in York County in PA.

No. MC 117574 (Sub-No. E112), filed July 4, 1975. Applicant: DAILY EX-

PRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Printing presses, printing press parts, and subassemblies, and equipment used in the operation of printing presses,* the transportation of which, because of size or weight, requires the use of special equipment, and (2) *commodities listed in part (1),* the transportation of which, because of size or weight, does not require the use of special equipment, when moving in the same vehicle with the commodities in (1) of this paragraph, from the facilities of J. C. Motter Printing Press Co. near York, PA, to points in the following States east of the Continental Divide; CO, ID, MT, NM, and WY with no transportation for compensation on return except as otherwise authorized; (1) *Welding, baking and chemical mixing and blending equipment, and parts* (2) *parts for commodities in (1),* the transportation of which, because of size or weight, requires the use of special equipment, and (3) *parts for commodities listed in part (1),* the transportation of which, because of size or weight does not require the use of special equipment when moving in the same vehicle with the commodities described in (1) of this paragraph, from York, PA, to points in the following States east of the Continental Divide: CO, ID, MT, NM, and WY, with no transportation for compensation on return except as otherwise authorized.

NOTE.—The purpose of this filing is to eliminate the gateway of Carlisle, PA.

No. MC 117574 (Sub-No. E150), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Commodities,* the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transportation is incidental thereto, and, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of self-propelled articles transported on trailers, (1) between points in Adair and Metcalfe Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY and points in that part of IN on, north and east of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to IN Hwy 3, to IN Hwy 18, to IN Hwy 21, to U.S. Hwy 31, to IN Hwy 14, to U.S. Hwy 35, to U.S. Hwy 20, to Lake Michigan; and points in that part of WV on and east of a line commencing at the WV-VA State line then along WV Hwy 83 to WV Hwy 80, to U.S. Hwy 52, to U.S. Hwy 119, to WV Hwy 10, to U.S. Hwy 60 to the KY-WV State line; (2) between points in Cumberland and Monroe Counties, KY, on the one hand, and, on the other, points in PA and points in that part of IN on and north of a line beginning at the IN-OH State line then along IN Hwy 38 to IN Hwy 25, to IN Hwy 28, to U.S. Hwy 41, to Interstate Hwy 74, to the IN-IL State line; and points in that part of WV on and east of a line commencing at the VA-WV State line, then to the WV-OH State line; (3) between points in Green and Taylor Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, points in that part of IN on, north, and east of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to IN Hwy 3, to IN Hwy 18, to IN Hwy 21, to U.S. Hwy 31, to IN Hwy 14, to U.S. Hwy 35, to U.S. Hwy 20, to Lake Michigan and points in that part of WV on and east of a line commencing at the WV-VA State line, then along WV Hwy 83 to WV Hwy 80, U.S. Hwy 52, to U.S. Hwy 119, to WV Hwy 10, to U.S. Hwy 60 to the KY-WV State line; (4) between points in Marion and Washington Counties, KY, on the one hand, and, on the other, points in PA and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 35 to IN Hwy 15, to IN Hwy 114, to U.S. Hwy 31, to U.S. Hwy 30, to U.S. Hwy 35, to Lake Michigan and points in that part of WV on and east of a line commencing at VA-WV State line, then along WV Hwy 83 to WV Hwy 80, to U.S. Hwy 552, to U.S. Hwy 119, to WV Hwy 10, to Interstate Hwy 64, to U.S. Hwy 60, to the OH-WV State line; (5) between points in Nelson and Spencer Counties, KY, on the one hand, and, on the other, points in PA and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 27 to U.S. Hwy 30, to U.S. Hwy 31, to the IN-MI State line and points in that part of MI north and east of a line commencing at the MI-IN State line then along U.S. Hwy 31 to Lake Michigan and points in that part of WV on and east of a line commencing at the WV-VA State line then along WV Hwy 83 to WV Hwy 80, to U.S. Hwy 52, to U.S. Hwy 119 to WV Hwy 10, to Interstate Hwy 64, to U.S. Hwy 60 to the OH-WV State line. The purpose of this filing is to eliminate the gateways of Columbus, OH, and points within 80 miles thereof.

No. MC 117574 (Sub-No. E-151), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Commodities,* the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transportation is incidental thereto, and, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of self-propelled articles transported on trailers, (1) Between points in Henry and Shelby Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, and points in that part of IN on, north, and east of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to junction IN Hwy 1, to junction IN Hwy 124, to junction IN Hwy 5, to junction U.S. Hwy 30, to junction U.S. Hwy 35, to junction U.S. Hwy 20, to Michigan City and Lake Michigan; points in that part of WV on and east of a line commencing at the WV-VA State line, then along WV Hwy 83 to junction WV Hwy 80, to junction U.S. Hwy 52, to junction U.S. Hwy 119, to junction WV Hwy 10, to junction U.S. Hwy 60 to the KY-WV State line.

(2) Between points in Carroll and Gallatin Counties, KY, on the one hand, and, on the other, points in PA and WV and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 224 to junction U.S. Hwy 27, to junction U.S. Hwy 30, to junction U.S. Hwy 31, to the IN-MI State line; points in that part of MI on and north and east of a line beginning at IN-MI State line, then along U.S. Hwy 31 to St. Joseph, MI. (3) Between points in Clinton and Russell Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, and points in that part of IN on, north, and east of a line commencing at the IN-IL State line, then along U.S. Hwy 24 to junction U.S. Hwy 35, to junction IN Hwy 9, to junction IN Hwy 38, to junction IN Hwy 3, to junction IN Hwy 44, to the IN-OH State line; points in that part of WV on and east of a line commencing at the WV-VA State line, then along WV Hwy 83 to junction WV Hwy 80, then to junction U.S. Hwy 52, to junction U.S. Hwy 119, to junction U.S. Hwy 3, to junction WV Hwy 34, to junction U.S. Hwy 35, to junction U.S. Hwy 35 to the WV-OH State line. (4) Between points in Boyle and Mercer Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, and points in that part of IN on, north and east of a line commencing at the IL-IN State line, then along U.S. Hwy 24 to junction U.S. Hwy 35, then to junction IN Hwy 9, to junction IN Hwy 38, to junction IN Hwy 3, to junction IN Hwy 44, to junction IN-OH State line; points in that part of WV on and east of a line commencing at the WV-VA state line then along WV Hwy 83 to junction WV Hwy 80, to junction U.S. Hwy 52, to junction U.S.

Hwy 119, to junction WV Hwy 10, to junction U.S. Hwy 60, to the KY-WV State line. (5) Between points in McCreary, Pulaski, and Wayne Counties, KY, on the one hand, and, on the other, points in MI and PA and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to junction U.S. Hwy 36, to the IN-IL State line; points in that part of WV on and east of a line commencing at the VA-WV State line, then along WV Hwy 3 to junction WV Hwy 99, to junction WV Hwy 85, to junction WV Hwy 10 to the WV-OH State line. The purpose of this filing is to eliminate the gateways of Columbus, OH, and points within 80 miles thereof.

By the Commission.

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

[FR Doc. 78-12999 Filed 5-11-78; 8:45 am]

[7035-01]

[Exception No. 8 to Revised Service Order No. 1322]

MISSOURI-KANSAS-TEXAS RAILROAD CO.

By the provisions of Revised Service Order No. 1322 the Missouri-Kansas-Texas Railroad Co. (MKT), is required to use seventy (70) percent of its serviceable ownership-of jumbo covered hoppers for transporting shipments of raw grain. A review of the normal use of these cars by that line discloses that it requires the use of a large portion of its fleet for transporting grain and soybean products and other bulk freight. The required use of seventy (70) percent of its serviceable fleet of jumbo covered hopper cars for transporting shipments of grain will result in undue hardship to other shippers normally using a portion of these cars. Accordingly, it is the opinion of the Railroad Service Board that an exception to the basic requirements of Revised Service Order No. 1322 should be granted to the MKT.

It is ordered, That pursuant to the authority vested in me by section (f) of Revised Service Order No. 1322, the Missouri-Kansas-Texas Railroad Co. is directed to assign to grain service at least fifty-five (55) percent of its ownership of jumbo covered hoppers as defined in section (a)(2) of Revised Service Order No. 1322, regardless of the provisions of section (c)(1) of the order.

The additional cars made available by this exception for transporting shipments other than grain shall be used for transporting shipments of grain products, soybean products or cottonseed products.

Effective 12:01 a.m., April 28, 1978.

Issued at Washington, D.C., April 28, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-13004 filed 5-11-78; 8:45 am]

[7035-01]

[Docket No. AB-51 (Sub-No. 1F)]

OREGON ELECTRIC RAILWAY CO.

Abandonment in Forest Grove, Washington County, or; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 28, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 ICC 76 (1977), the present and future public convenience and necessity permit the abandonment by the Oregon Electric Railway Co. of a line of railroad known as the Forest Grove Line extending from railroad milepost 10.27 to railroad milepost 10.86 in Forest Grove, OR, a distance of 0.59 miles, in Washington County, OR. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon Electric Railway Co. Since no investigation was instituted, the requirement of section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

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

[FR Doc. 78-13001 Filed 5-11-78; 8:45 am]

[7035-01]

[Investigation and Suspension Docket No. M-29792]

PICKUP AND DELIVERY ON SAME DAY—PERKINS TRUCKING

Directing Modified Procedure

MAY 5, 1978.

It is ordered: This proceeding will be handled under the modified procedure, following rules 43 to 52 of the Commission's Rules of Practice, 49 CFR 1100.43-52. Filing and service or pleadings shall follow this schedule: (a) opening statement of facts and arguments by respondent(s) and any parties supporting respondent(s) within 20 days from the service date of this order; (b) 30 days after that date, statement of facts and argument by protestants(s) and any supporting parties; and (c) reply by respondent(s) and any supporting parties 20 days thereafter.

Protestant(s) shall timely advise respondent(s) and this Commission of the identity and addresses of the individuals composing the protestant's(s) defense committee, if any, and shall specify the number of copies of respondent's(s') statement which are desired, and to whom the copies are to be sent.

Because of the necessity for deciding the issues within the 7-month suspension period, no recommended report and order is contemplated.

Decided May 5, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

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

REPRESENTATIVES OF THE PARTIES

Ralph Malloy (Respondents), Perkins Trucking Co., Inc., 250 Miller Place, Hicksville, N.Y. 11801.

R. E. Mutter (Respondents), Tariff Issuing Officer, Middle Atlantic Conference, P.O. Box 10213, Washington, D.C. 20018.

Myron Smith (Interested Party), National Small Shipments Traffic Conference, Inc., 685 Third Avenue, New York, N.Y. 10017.

[7035-01]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products,* Ex Parte No. MC 85, 124 MCC 583 (1976).

An original and one copy or protests (including protestant's complete argu-

ment and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before June 1, 1978. A copy must also be served upon applicant or its representative. Protests against applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before June 12, 1978, subject to its tariff publication effective date.

P-43-76 (Special Certificate—Waste Products), amendment, filed February 27, 1978. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes transporting: *Waste products* for recycling or reuse in the furtherance of a recognized pollution control program between all points in the United States (except AK and HI), in furtherance of a recognized pollution control program sponsored by Copperweld Steel of Warren, OH for the purpose of recycling and reusing waste products.

NOTE.—Applicant holds an Ex Parte No. 85 special certificate in No. P-43-76 issued February 8, 1977 and served February 16, 1977 which was published in the FEDERAL REGISTER issue of January 10, 1977. The purpose of this amendment is to add the sponsor of Copperweld Steel of Warren, OH.

P-8-78 (Special Certificate—Waste Products), filed April 2, 1978. Applicant: DEES TRANSPORTATION, INC., 113 Grace Street, P.O. Box 446, Worland, WY 82401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rags, cloth, and old clothing*, for recycling or reuse (1) from points in ID, MT, WY, CO, and UT, to Denver, CO; and (2) from Denver, CO, to Los Angeles and Fresno, CA in furtherance of a recognized pollution control program sponsored by (1) the Salvation Army of Denver, CO; and (2) Denver, Waste Materials, Inc. of Denver, CO, for the purpose of transporting and recycling rags, cloth and old clothing.

P-9-78 (Special Certificate—Waste Products), filed March 26, 1978. Applicant: LEON F. STARBIRD, P.O. Box 462, R.F.D. 1, Hollis Center, ME 04042. Applicant's representative: John G. Feehan, One Canal Plaza, Portland, ME 04112. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass cullet and by-metal scrap* (beverage containers), from the facilities of Maine Beverage Container Services, Inc., located at Portland, ME, to Dayville, CT and Elizabeth, NJ in furtherance of a recognized pollution control program sponsored by Maine Beverage Container Services, Inc. of Portland, ME for the purpose of transporting and recycling glass cullet and by-metal scrap (beverage containers).

P-10-78 (Special Certificate—Waste Products), filed April 14, 1978. Applicant: MALONE TRUCKING CO., a corporation, 21-21st Street, Texas City, TX 77590. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Building, Suite 3300, Houston, TX 77002. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid waste products for reuse and recycling*, between points in the United States, including Alaska, but excluding Hawaii in furtherance of a recognized pollution control program sponsored by Malone Service Co. of Texas City, TX for the purpose of transporting and recycling liquid waste products for reuse and recycling.

By the Commission.

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

[FR Doc. 78-13000 Filed 5-11-78; 8:45 am]

[7035-01]

VOLUNTARY PREPARATION OF CERTIFICATES IN MOTOR CARRIER FINANCE CASES

AGENCY: Interstate Commerce Commission.

ACTION: Instruction for preparation of certificates in motor carrier finance cases.

SUMMARY: The purpose of this document is to encourage applicants in motor carrier finance proceedings to prepare for Commission review draft certificates or permits.

FOR FURTHER INFORMATION CONTACT:

G. M. Bober, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. 202-275-7564.

VOLUNTARY PREPARATION OF CERTIFICATES IN MOTOR CARRIER FINANCE CASES

MAY 3, 1978.

Motor carrier transactions under section 5 of the Act, with the exception of acquisitions of control, necessitate the preparation of new certificates. The new certificates are issued to reflect that portion of the operating authority to be acquired by the vendee, as well as any authority to be retained by the vendor. Many finance transactions involve the preparation and issuance of a substantial volume of certificated authority. The administrative burden imposed upon the Commission as a result of this procedure is substantial.

In order to alleviate a considerable portion of this burden, applicants (vendee and/or vendor) are encouraged to draft for review by the Commission certificates or permits reflecting the authority authorized to be acquired as well as any authority to be retained.

Assistance and appropriate forms may be obtained from the Certificates Unit, Room 2372, 202-275-7251. The draft certificate or permit should also be addressed to the Interstate Commerce Commission, Certificates Unit, Room 2372, 12th Street and Constitution Avenue, N.W., Washington, D.C. 20423.

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

[FR Doc. 78-12991 Filed 5-11-78; 8:45 am]

[7035-01]

[ICC Order No. 55 Under Revised Service Order No. 1252]

WESTERN MARYLAND RAILROAD CO.

Rerouting Traffic

To all Railroads: In the opinion of Joel E. Burns, Agent, the Western Maryland Railroads Co. is unable to transport promptly all coke traffic offered for movement via its lines serving Baltimore, Md., because of congestion.

It is ordered, That: (a) *Rerouting traffic.* The Western Maryland Co. being unable to transport promptly all coke traffic offered for movement via its lines serving Baltimore, Md., because of congestion, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing .

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurence of other

railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Comission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 a.m., April 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12995 Filed 5-11-78; 8:45 am]

[7035-01]

[Amendment No. 3 to Exemption No. 143]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To: *All Railroads*

Upon further consideration of Exemption No. 143 issued January 26, 1978.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 143 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire June 30, 1978.

This amendment shall become effective April 30 1978.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12996 Filed 5-11-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 16, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Oral report on State Advisory Committee meeting.
Definition of Proprietary Accounts/reg. 1.3.
Proposed revision of remaining May Calendar.
Petition for interim rulemaking (amendment of regulation section 32.11) from Mocatta Metals Corporation, Metals Quality Corporation
Petition for general exemption from the provisions of regulation sec. 32.11 from Rosenthal and Company
Petition for general exemption from the provisions of regulation section 32.11 from Dowdex Corporation

Portions closed to the public:

Enforcement Matters/application for registration as FCM; revocation of registration of AP.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1002-78 Filed 5-10-78; 9:52 am]

[6570-06]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATIONS OF PREVIOUS ANNOUNCEMENTS: S-973-78 and S-986-78.

PREVIOULY ANNOUNCED TIME AND DATE OF MEETING: 11 a.m. (eastern time), Thursday, May 11, 1978.

CHANGE IN THE MEETING: The following item is added to the portion open to the public.

Designation of the Commonwealth of Puerto Rico Department of Labor and the Austin (Texas) Human Relations Commission as 706 agencies.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued May 9, 1978.

[S-998-78 Filed 5-10-78; 8:55 am]

[6715-01]

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, May 17, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

* * *

DATE AND TIME: Thursday, May 18, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of future meetings.
Correction and approval of minutes.
Election of Chairman and Vice Chairman.
Appropriations and budget.
Nonfiler procedures.
Rules of procedures of the FEC pursuant to 2 U.S.C. 437c(e).
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions closed to the public:

Any matters not concluded at the Executive Session of May 10, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1006-78 Filed 5-10-78; 3:18 am]

[6740-02]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19753, May 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 10, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

M-4.—Annual applications of the Gas Research Institute.

KENNETH F. PLUMB,
Secretary.

[S-1003-78 Filed 5-10-78; 9:52 am]

[6210-01]

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19497, May 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, May 10, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposed expansion of the System's computer hardware monitoring pro-

gram. This matter will be rescheduled at a later date.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Asssistant to the Board, 202-452-3204.

Dated: May 9, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-1004-78 Filed 5-10-78; 9:52 am]

[6210-01]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Wednesday, May 17, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20331.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Proposed negotiation of competitive purchases of computers and computer equipment within the Federal Reserve System.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

4Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: May 9, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[S-999-78 Filed 5-10-78; 8:55 am]

[7020-02]

7

[USITC SE-78-210]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 18628, May 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m. Thursday, May 11, 1978.

CHANGES IN THE MEETING: Agenda Item No. 7, FOIA Appeal from Mr. John Heise, Jr., regarding request No. 78-16, previously announced as open to the public, was closed to the public by a vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1005-78 Filed 5-10-78; 3:18 pm]

[7035-01]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, May 16, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue, NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. Briefing on Freight Subsidy Program (RSPO).
2. First periodic briefing on Betterment versus Depreciation Accounting (Accounts).
3. Quarterly abandonment briefing (Proceedings).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

MAY 9, 1978.

[S-1001-78 Filed 5-10-78; 8:55 am]

[8010-01]

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities ane Exchange Commission will hold the following meetings during the week of May 15, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 16, 1978, at 10 a.m. and on Thursday, May 18, 1978, immediately following the open meeting. Open meetings will be held on Wednesday, May 17, 1978, at 9 a.m. and on Thursday, May 18, 1978, at 1:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 16, 1978, at 10 a.m., will be:

Formal orders of investigation.
Referral of investigatory files to Federal, State, or Self-Regulatory authorities.
Dismissal of injunctive action.
Institution injunctive action.
Settlement of injunctive action.
Settlement of an administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.

The subject matter of the closed meeting scheduled for Thursday, May 18, 1978, immediately following the open meeting, will be:

Institution of injunctive action.
Regulatory matter bearing enforcement implications.
Opinion.

The subject matter of the open meeting scheduled for Wednesday, May 17, 1978, at 9 a.m., will be:

1. Applications filed by Richmond, Fredericksburg and Potomac Railroad for an exemptive order from certain reporting requirements under the Securities Exchange Act of 1934.
2. Application filed by Horn & Hardart Co. for Commission review of a request for an extension of time within which to file the company's annual report on Form 10-K for the fiscal year ended December 31, 1977.
3. Affirmation of duty officer action to extend the comment period concerning accounting practices of oil and gas producers and give notice of an additional hearing date concerning this matter.
4. Affirmation of duty officer action authorizing the transmittal of oral comments to the Office of Management and Budget, concerning the Department of Commerce Options Paper on Product Liability and Accident Compensation.
5. Consideration of a Freedom of Information Act appeal of Mr. John A. Byrne for information concerning Commissioners and staff members in grades GS-15 and above who have been employed in industries regulated by the Commission either before or after joining the Commission or its staff.
6. Consideration of proposed amendments to the Uniform System of Accounts for Mutual and Subsidiary Service Companies pursuant to the Public Utility Holding Company Act of 1935, which would follow, with modifications, the Federal Energy Regulatory Commission's Uniform System of Accounts; proposed amendments to Rule 93, which would require service companies to keep accounts and records in accordance with the proposed amended Uniform System of Accounts.
7. Consideration of a proposed rule interpreting section 3(a)(8) of the Securities Act of 1933, to provide guidance in determining when a contract, though issued by an insurance company and styled an annuity, is ineligible for such an exemption and required to be registered. The proposal would set forth a number of factors to be considered in determining the status under the Federal securities laws of a contract issued by an insurance company.

The subject matter of the open

meeting scheduled for Thursday, May 18, at 1:30 p.m., will be:

1. Proposed order extending effective date of the withdrawal from listing and registration in the matter of Pacific Resources, Inc. on the Pacific Stock Exchange, Inc.; Application by the Pacific Stock Exchange, Inc. for unlisted trading privileges in the common stock of Pacific Resources, Inc.

2. Consideration of a proposed amendment to section 21 of the Securities Exchange Act of 1934, that would enhance the Commission's ability to obtain information in the course of investigations and a proposed amendment to section 22 of the Act, which would authorize the Commission to issue cease and desist orders.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Edward B. Horahan at 202-376-8072 or John Sweeney at 202-376-7077.

MAY 19, 1978.

[S-1000-78 Filed 5-10-78; 8:55 am]

federal register

FRIDAY, MAY 12, 1978
PART II

DEPARTMENT OF LABOR

Employment Standards Administration

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MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determinations Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arizona:	
AZ77-5058; AZ77-5059	June 17, 1977.
California:	
CA78-5002	Feb. 24, 1978.
CA78-5003	Apr. 21, 1978.
Connecticut:	
CT78-3003	Feb. 17, 1978.
Hawaii:	
HI78-5016	Mar. 17, 1978.
Idaho:	
ID78-5017	Apr. 7, 1978.
Illinois:	
IL78-2017; IL78-2018; IL78-2020; IL78-2021; IL78-2022; IL78-2024; IL78-2026; IL78-2027; IL78-2028; IL78-2031; IL78-2034; IL78-2035; IL78-2036; IL78-2037; IL78-2038; IL78-2041; IL78-2042.	Mar. 17, 1978.
Kansas	
KS78-4008; KS78-4009	Feb. 3, 1978.
Maryland:	
MD78-3020	Apr. 14, 1978.
Massachusetts:	
MA78-3022; MA78-3024; MA78-3029; MA78-3031.	Apr. 21, 1978.
MA78-3025; MA78-3030; MA78-3032.	Apr. 14, 1978.
Pennsylvania:	
PA76-3169	May 21, 1976.
PA77-3060	May 20, 1977.
PA77-3107	Aug. 26, 1977.
Texas:	
TX78-4025	Mar. 31, 1978.
TX78-4030; TX78-4031; TX78-4036; TX78-4040; TX78-4041; TX78-4043.	Apr. 14, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Kansas:	
KS77-4023 (KS78-4049); KS77-4024 (KS78-4050).	Feb. 18, 1977.
Louisiana:	
LA78-4001 (LA78-4052)	Jan. 6, 1978.
Ohio:	
OH78-2003 (OH78-2055); OH78-2004 (OH78-2057); OH78-2005 (OH78-2058).	Feb. 10, 1978.
OH78-2007 (OH78-2056)	Mar. 10, 1978.
Pennsylvania:	
PA77-3050 (PA78-3045); PA77-3053 (PA78-3043); PA77-3055 (PA78-3015).	May 13, 1977.
PA77-3059 (PA78-3044)	May 20, 1977.
South Carolina:	
SC75-1031 (SC78-1046)	Mar. 14, 1977.
Texas:	
TX76-4118 (TX78-4051)	July 16, 1976.
Virginia:	
VA77-3089 (VA78-3039); VA77-3091 (VA78-3042).	July 1, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 5th day of May 1978.

DOROTHY P. COME,
Acting Assistant Administrator,
Wage and Hour Division.

DECISION #AZ77-5058 - Mod. #9
(42 FR 31056 - June 17, 1977)
Statewide, Arizona

Change:
Plasterers:
Phoenix Area:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone A: 0 to 35 miles from Phoenix, Arizona	$10.22	.95	$1.10		.06
Zone B: 35 to 60 miles from Phoenix, Arizona	10.97	.95	1.10		.06
Zone C: 60 miles and over from Phoenix, Arizona	12.095	.95	1.10		.06

DECISION #AZ77-5059 - Mod. #7
(42 FR 31065 - June 17, 1977)
Maricopa County, Arizona

Change:
Plasterers:
(Northern 3/4 of County):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone A: 0 to 35 miles from Phoenix, Arizona	$10.22	.95	$1.10		.06
Zone B: 35 to 10 miles from Phoenix, Arizona	10.97	.95	1.10		.06
Zone C: 60 miles and over from Phoenix, Arizona	12.095	.95	1.10		.06
Sprinkler Fitters	12.74	.75	1.05		.08

DECISION NO. CA78-5002 - Mod. #2
(43 FR 7681 - February 24, 1978)
Alameda, Alpine, Amador, Butte, Calaveras, Coluse, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

Add:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
(Areas I and II)					
Group 3:					
Rodman or Chainman:					
Area I	$ 9.73	$1.58*	$2.25	$1.00	.29
Area II	11.24	1.58*	2.25	1.00	.29
Group 7:					
Instrumentman:					
Area I	10.87	1.58*	2.25	1.00	.29
Area II	12.38	1.58*	2.25	1.00	.29

*Include $.28 per hour to Pensioned Health and Welfare Fund.

MODIFICATIONS P. 3

DECISION NO. CA78-5003 - Mod. #3 (43 FR 17162 - April 21, 1978) Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, Eldorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
On MODIFICATION #1 - under DECISION NO. CA78-5002 - in 43 FR - 17162 - Dated April 21, 1978					
Power Equipment Operators: (Areas I and II)					
Residential Construction					
Group 3:					
Rodman or chainman:					
Area I	$ 9.73	$1.58	$2.25	$1.00	.29
Area II	11.24	1.58	2.25	1.00	.29
Group 7:					
Area I	10.87	1.58	2.25	1.00	.29
Area II	12.38	1.58	2.25	1.00	.29
DECISION NO. CT78-3003- Mod #1 (43 FR 7110- February 17, 1978) Fairfield, Litchfield, and Windham Counties, Conn.					
Change:					
Carpenters, millwrights, pile-divermen, soft floor layers:					
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Redding, Ridgefield, Sherman, Stamford, & Wilton;					
Lithhfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hattford, New Milford, Norfolk, Norwalk, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, and Woodbury:					
Commercial	$10.10	.90	.65		.10
Residential-- up to and including 4 stories	6.90	.90	.65		.10

MODIFICATIONS P. 4

DECISION #HI78-5016 - Mod. #2 (43 FR 11366 - March 17, 1978) Statewide Hawaii	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers	$10.15	$1.11	.65	.97	.16
Power Equipment Operators:					
(Except Piledriving and Steel Erection):					
Group 1	8.15	1.05	2.20	.75	.10
Group 2	8.26	1.05	2.20	.75	.10
Group 3	8.43	1.05	2.20	.75	.10
Group 4	8.70	1.05	2.20	.75	.10
Group 5	9.01	1.05	2.20	.75	.10
Group 6	9.66	1.05	2.20	.75	.10
Group 7	9.98	1.05	2.20	.75	.10
Group 8	10.09	1.05	2.20	.75	.10
Group 9	10.20	1.05	2.20	.75	.10
Group 9-A	10.43	1.05	2.20	.75	.10
Group 10	10.49	1.05	2.20	.75	.10
Group 10-A	10.64	1.05	2.20	.75	.10
Group 11	10.79	1.05	2.20	.75	.10
Group 12	11.15	1.05	2.20	.75	.10
Truck Drivers:					
Flatbed	8.43	1.05	2.20	.75	.10
Dump, 8 yds. and under; Water truck (up to and including 2000 gals.)	8.70	1.05	2.20	.75	.10
Water truck (over 2000 gals.):					
Tandem	9.01	1.05	2.20	.75	.10
Semi-trailer or Semi-dump	9.66	1.05	2.20	.75	.10
Slip-in or pup	9.98	1.05	2.20	.75	.10
End dumps, unlicensed (Euclid, Mack, Caterpillar or similar);					
Tractor trailer (hauling equipment)	10.09	1.05	2.20	.75	.10
DECISION #ID78-5017 - Mod. #2 (43 FR 14841 - April 7, 1978) Statewide Idaho					
Change:					
Electricians:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties:					
Electricians	$11.35	.70	3% + .75		1%
Cable Splicers	12.485	.70	3% + .75		1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2017 - Mod. #1					
(43 FR 11371 - March 17, 1978)					
Adams, Brown & Pike Counties, Illinois					
CHANGE:					
Adams County:					
Carpenters & Soft Floor Layers	$10.50	.65	.35		.02
Millwrights & Piledrivermen	10.75	.65	.35		.02
DECISION #IL78-2018 - Mod. #1					
(43 FR 11373 - March 17, 1978)					
Champaign & Vermilion Counties, Illinois					
CHANGE:					
Champaign County:					
Bricklayers, Stonemasons Marble-Tile & Terrazzo Workers	11.70	.45	.50		.05
	12.55	.50			
Carpenters & Soft Floor Layers	11.715	.45	1.00		.08
Millwrights & Piledrivermen	12.215	.45	1.00		.08
Electricians	12.55	.50	3%+.30		.3%
Ironworkers	11.55	.65	1.00		.08
Painters:					
Brush	11.57	.55	.40		.04
Open & Erected Steel	12.57	.55	.40		.04
Plasterers	11.915	.45			.025
Vermilion County:					
Remainder of County:					
Carpenters & Soft Floor Layers	11.645	.75	.80		.05
Millwrights & Piledrivermen	12.145	.75	.80		.05
Cement Masons & Plasterers	11.35		.80		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2020 - MOD. #1					
(43 FR 11379 - March 17, 1978)					
DuPage, Grundy, Kane, Kendall, Lake McHenry and Will Counties, Illinois					
Change:					
ELECTRICIANS:					
Lake County	$12.64	.65	3%+.90		½ of 1%
Omit:					
DECISION NO. IL77-2068					
Add:					
DECISION NO. IL78-2020					
Change:					
Laborers:					
Class 1	8.55	.57	1.10		
Class 2	8.65	.57	1.10		
Class 3	8.70	.57	1.10		
Class 4	8.75	.57	1.10		
Class 5	8.80	.57	1.10		
Class 6	8.90	.57	1.10		
Class 7	9.05	.57	1.10		
DECISION #IL78-2021 - MOD. #1					
(43 FR 11384 - March 17, 1978)					
Fulton, Hancock, McDonough & Schuyler Counties, Illinois					
Change:					
Bricklayers:					
Hancock & McDonough Counties					
Bricklayers, Stonemasons, Cement Blocklayers, Marble-Tile & Terrazzo Workers	12.30				
Carpernters:					
McDonough County & Eastern 1/3 of Hancock County					
Carpenters & Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
Cement Masons & Plasterers:					
Hancock, McDonough & Schuyler Counties					
Cement Masons	12.35				
Hancock & McDonough Counties					
Plasterers	12.10				
Painters:					
Remainder of Counties:					
Brush	10.75				
Structural Steel & Spray	11.25				

DECISION #IL78-2021 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Laborers:					
Hancock & McDonough Counties					
Unskilled	$10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Fulton County					
Projects under $375,000					
Unskilled	10.15	.60	.60		.035
Semi-Skilled	10.35	.60	.60		.035
Skilled	10.55	.60	.60		.035
Projects in execess of $375,000					
Unskilled	10.55	.60	.60		.035
Semi-Skilled	10.75	.60	.60		.035
Skilled	10.95	.60	.60		.035
DECISION #IL78-2022 - MOD. #1 (43 FR 11387 - March 17, 1978) Ford, Iroquios & Kankakee Counties, Illinois					
Change:					
Laborers:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Electricians					
Kankakee County and Remainder of Ford and Iroquois Counties	11.67	.50	3%+.70		.2 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DECISION #IL78-2024 - Mod. #1 (43 FR 11391 - March 17, 1978) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE:					
Under Counties:					
Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford					
Electricians:					
Northern ½ & Central Southern part of LaSalle County; Walnut; Ohio; Lamoille, Clarton, Bureau, Dover, Berrin & Westbille Township in Bureau County	$13.43	.50	3%+.70		.2 of 1%
Laborers:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
DECISION #IL78-2026 - Mod. #1 (43 FR 11395 - March 17, 1978) Logan, Mason & Menard Counties, Illinois					
CHANGE:					
Bricklayers:					
Logan & Mason Counties					
Bricklayers, Stonemasons, Cement Blocklayers, Caulkers, Pointers, Cleaners & Plasterers	11.90				
Cement Masons:					
Logan County	11.45				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2027 - MOD. #1 (43 FR 11395 - March 17, 1978) McLean County, Illinois					
Change:					
Carpenters:					
Carpenters and Soft Floor Layers	$12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05
Cement Masons	12.53	.55			
Laborers:					
Unskilled	9.97	.55	.60		.035
Semi-Skilled	10.17	.55	.60		.035
Skilled	10.37	.55	.60		.035
DECISION #IL78-2028 - MOD. #1 (43 FR 11401 - March 17, 1978) Christian, DeWitt, Macon, Macoupin, Moultrie, Piatt, and Shelby Counties, Illinois					
Change:					
Bricklayers and Stonemason:					
Macon, Moultrie and Shelby Cos.	11.90	.60	.50		.005
Carpenters:					
Macon County, Moultrie County: (Bethany, Okaw River, Lovington, Williamsbury, Lake City and all areas north); Piatt County: (Cisco, Bement, Allerton Park and all areas South therof:					
Carpenters and Soft Floor Layers	11.935	.60	.65		.06
Millwrights & Piledrivermen	12.435	.60	.65		.06
Tile-Terrazzo-Marble Workers:					
Macon and Shelby Counties	11.60	.60	.50		.005

DECISION #IL78-2028 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement Masons:					
Macon County, Christian County: (Northern part south to a line running east & west established north of Humphrey & including Stonington); Shelby County: (Northern part including Moweaqua); Moultrie County: Northeastern part including Lovington); Piatt County: (Southern portion) DeWitt County (Southern ½ of County including Clinton)	$12.05	.60	.425		
Remainder of Christian County	11.20		.65		
Painters:					
Macon, Shelby, Moultrie, Piatt & DeWitt Counties	11.00	.50	.40		
Plasterers:					
Southern ½ of Christian County	11.20		.65		
Macon County, Christian County: (Norhtern part south to a line running east & west established north of Humphrey and including Stonington); Shelby County: Northern part including Moweaqua); Moultrie County: (Northeastern part including Lovington); Piatt County: (Southern portion) DeWitt County (Southern ½ of County includin Clinton)	12.27	.60	.425		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2031 - MOD. #1 (43 FR 11401 - March 17, 1978) Madison & St. Clair Counties, Illinois					
Change:					
Roofers:					
Composition-Slate-Tile	$10.95	.67	.55		.03
Plumbers & Steamfitters:					
Alton & Northern part of Madison Co., North of Mitchell, Granite City; Southern ½ of Madison Co., & E. St. Louis & UIC. in St. Clair Co.	12.20	.40	1.00		
Truck Drivers:					
Group I	10.125	.65	a31.00		
Group II	10.525	.65	a31.00		
Group III	10.725	.65	a31.00		
DECISION #IL78-2034 - MOD. #1 (43 FR 11410 - March 17, 1978) Cass, Morgan and Scott Counties, Illinois					
Change:					
Bricklayers:					
Morgan & Scott Counties:					
Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers, Cement Block Layers-Pointers-Caulkers and Cleaners	10.80	.50	.52		.02
Cass County:					
Bricklayers	10.80	.50	.52		.02
Carpenters:					
Carpenters and Soft Floor Layers	10.40	.55	.25		.02
Millwrights	10.65	.55	.25		.02
Piledrivermen	10.90	.55	.25		.02
Cement Masons and Plasterers:					
Morgan and Scott Counties:					
Cement Masons	10.555	.50	.52		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2035 - MOD. #1 (43 FR 11412 - March 17, 1978) Peoria and Tazewell Counties, Illinois					
Change:					
Carpenters:					
Residential					
Tazewell County and Remainder of Peoria County	$12.01	.40	.50		.05
Commerical					
Tazewell County and Peoria County:					
Carpenters & Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
Cement Masons	11.50	.70	.80		.05
Glaziers	11.53	.55	.55		
Ironworkers	11.975	.65	.925		
Marble & Tile Finishers	11.00	.60	.25		
Terrazzo Finishers:					
Terrazzo Finishers & Floor Machine Operators	11.13	.60	.25		
Base Machine Operators	11.38	.60	.25		
Plumbers & Steamfitters:					
Peoria County & North of Highway #98 in Tazewell County	12.70	.51	1.05		.15
Remainder of Tazewell	12.70	.51	1.02		.11
Roofers	12.00	.70	.40		.025
Laborers: Peoria County & the of East Peoria (Tazewell County)					
Class 1	10.75	.40	.60		.035
Class 2	10.875	.40	.60		.035
Class 3	11.00	.40	.60		.035
Class 4	10.925	.40	.60		.035
Class 5	11.125	.40	.60		.035
Class 6	10.875	.40	.60		.035
Class 7	11.00	.40	.60		.035
Laborers:					
Remainder of Tazewell County					
Unskilled	10.55	.60	.60		.035
Semi-Skilled	10.75	.60	.60		.035
Skilled	10.95	.60	.60		.035

DECISION #IL78-2035 - MOD. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators					
Group 1	$12.22	.45	.80		.05
Group 2	12.02	.45	.80		.05
Group 3	11.645	.45	.80		.05
Group 4	11.37	.45	.80		.05
Group 5	10.76	.45	.80		.05
Dredging Construction:					
Group 1	12.22	.45	.80		.05
Group 2	12.02	.45	.80		.05
Group 3	11.645	.45	.80		.05
Group 4	11.37	.45	.80		.05
Group 5	10.76	.45	.80		.05
DECISION #IL78-2036 - MOD. #1 (43 FR 11415 - March 17, 1978) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
Change:					
Carpenters:					
Knox, Henderson and Warren Cos.					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
Cement Masons:					
Knox and Warren Counties					
Cement Masons & Plasterers	12.80	.50	.25		
Painters:					
Remainder of Knox County					
Brush and Paperhangers	9.50	.55	.15		
Structural Steel	9.75	.55	.15		
Roofers:					
Rock Island, Henry & Mercer Counties	12.65		.80		
Remainder of Counties	10.20				

DECISION #IL78-2036 - MOD. #1 (Cont d)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Stark - Western ½					
Unskilled	$ 9.84	.45	.60		.035
Semi-Skilled	10.04	.45	.60		.035
Skilled	10.24	.45	.60		.035
Eastern Half of Stark County					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Henry County					
Unskilled	9.84	.45	.60		.035
Semi-Skilled	10.04	.45	.60		.035
Skilled	10.24	.45	.60		.035
Knox, Henderson & Warren Cos.					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
DECISION #IL78-2037 - MOD. #1 (43 FR 11421 - March 17, 1978) Sangamon County, Illinois					
Change:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers, Caulker & Cleaners	10.75	.50	1.00		.02
Ironworkers	11.75	.55	.90		.03
Plasterers	12.41	.65	1.00		.01
Plumbers	12.43	.35	.88		.07
Sprinkler Fitters	12.10	.75	1.05		.08
Laborers:					
Unskilled	10.55	.45	.45		.035
Semi-Skilled	10.75	.45	.45		.035
Skilled	10.90	.45	.45		.035

DECISION #IL78-2038 - MOD. #1 (43 FR 11423 - March 17, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alexander, Franklin, Gallitin, Hamilton, Hardin, Jackson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, White & Williamson Counties, Illinois					
Change:					
Carpenters:					
Hamilton, Jefferson & White Counties:					
Carpenters, Piledrivermen & Soft Floor Layers	$10.11	.45	.50		.02
Millwrights	10.46	.45	.50		.02
Marion County:					
Carpenters, Piledrivermen & Soft Floor Layers	10.06	.50	.50		.03
Millwrights	10.41	.50	.50		.03
Cement Masons & Plasters:					
Franklin, Hamilton, Jefferson, & Williamson Counties	10.70				
Saline, Gallatin, Hardin, Pope, Johnson, Massac & White Cos.	10.70				
Laborers:					
Hamilton, Jefferson & White Counties	8.60	.40	.30		.035
Remainder of Counties	8.30	.40	.30		.035

DECISION #IL78-2041 - MOD. #1 (43 FR 11436 - March 17, 1978) Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne Counties, Illinois	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Coles, Clark, Cumberland, Edgar, Effingham, Cos; Western ½ of Jasper Co., & Southern Part of Douglas County:					
Carpenters & Soft Floor Layers	$12.325	.55	.30		.07
Millwrights & Piledrivermen	12.825	.55	.30		.07
Crawford & Lawrence Cos; Eastern ½ of Jasper County:					
Carpenters & Soft Floor Layers	10.67	.57	.50		
Millwrights & Piledrivermen	11.07	.57	.50		
Painters:					
Crawford, Jasper, Effingham, Lawrence & Richland Cos.:					
Commerical & Industrial	9.80		.85		

DECISION #IL78-2042 - MOD. #1 (43 FR 12538 - March 17, 1978) Boone, DeKals, Dupage, Kane, Kendall, Lake, McHenry and Will Counties, Illinois					
Change:					
Electricians:					
Will County	$13.43	.50	3%+.70		.2 of 1%

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #KS78-4008-Mod. #1 (43 FR-4812-February 3,1978) Sedgwick County,Kansas					
Change:					
Asbestos Workers	$ 10.90	.81	.50		.02
Painters:					
Group 1	10.07	.10	.30		.01
Group 2	10.67	.10	.30		.01
Group 3	10.67	.10	.30		.01
Group 4	10.82	.10	.30		.01
Plasterers	9.50				.01
Sprinkler Fitters	11.93	.75	1.05		.08
Decision #KS78-4009-Mod. #1 (43 FR-4814-February 3,1978) Shawnee County, Kansas					
Change:					
Glaziers	9.63	.61	.96	2.38	.04
Lathers	10.15		.20		
Painters:					
Brush,drywall,sanding & taping	10.40	.50			.02
Painting of structures of 50' (all types); spraying	10.90	.50			.02
Soft Floor Layers	8.80	.50	.45	.88	.04
Sprinkler Fitters	11.93	.75	1.05		.08
Decision #MD78-3020 - Mod. #1 (42 FR-16045 - April 14, 1978) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore and Baltimore City, Maryland, and for Heavy Construction projects in Harford and Howard Counties, Maryland					
Change:					
Bricklayers	$10.33	.70	.50		.07
Marble Setters	10.33	.70	.50		.07
Roofers:					
Roofers, damp & waterproof workers	8.40	.35	.40		
Slate, tile, asbestos, & asphalt shingle	8.85	.35	.40		
Precast slab & woodblock layer	9.40	.35	.40		
Stone Masons	10.33	.70	.50		.07

DECISION NO. MA78-3027- Mod #1 (43 FR 17175- April 21, 1978) Barnstable County, Massachusetts

DECISION NO. MA78-3024- Mod #1 (43 FR 17180- April 21, 1978) Bristol County, Massachusetts

DECISION NO. MA78-3025- Mod #1 (43 FR 16048- April 14, 1978) Essex County, Massachusetts

DECISION NO. MA78-3029- Mod #1 (43 FR 17185- April 21, 1978) Middlesex County, Massachusetts

MODIFICATIONS P. 18

DECISION NO. MA78-3030- Mod #1 (43 FR 16054- April 14, 1978) Norfolk County, Massachusetts

DECISION NO. MA78-3031- Mod #1 (43 FR 17194- April 21, 1978) Plymouth County, Massachusetts

DECISION NO. MA78-3032- Mod #1 (43 FR 16059- April 14, 1978) Suffolk County, Massachusetts

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building)					
Laborers, Wrecking, laborers and carpenter tenders	8.00	.60	.75		.10
Asphalt rakers, Carbide Core Driller Ops., Saw Ops., Pipelayers, Jackhammer & Paving Breaker Op., Barco-type jumping tampers, Laser Beams op., concrete pump ops., & wagon drill ops., mason tenders, mortar mixers & ride-on motorized buggy ops. and plasterers tenders	$ 8.25	.60	.75		.10
Air track op., Block pavers rammers & curb setters	8.50	.60	.75		.10
Blasters & powdermen	8.75	.60	.75		.10
Open air caison, cylindrical work & boring crew:					
Botton man	8.75	.60	.75		.10
Top man	8.00	.60	.75		.10
Test Boring:					
Driller	8.87	.60	.75		.10
Helper	8.12	.60	.75		.10

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$ 8.00	.60	.75		.10
CLASS II	8.25	.60	.75		.10
CLASS III	8.50	.60	.75		.10
CLASS IV	8.75	.60	.75		.10
ELECTRICIANS: Middlesex County: Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirely,Townsend:					
Commercial & Residential	10.55	.75	3%+.70		.02

DECISION #PA76-3169 - Mod. # 8 (41 FR 21133 - May 21, 1976) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators Heavy Construction					
GROUP I	$12.75	7%	10.3%		1.8%
GROUP II	12.49	7%	10.3%		1.8%
GROUP III	11.62	7%	10.3%		1.8%
GROUP IV	11.41	7%	10.3%		1.8%
GROUP V	11.10	7%	10.3%		1.8%
GROUP VI	10.93	7%	10.3%		1.8%
GROUP VII	10.42	7%	10.3%		1.8%
GROUP VIII	9.68	7%	10.3%		1.8%
Power Equipment Operators Highway Construction:					
WAGE GROUP 1	12.50	7%	10.3%	a	1.8%
WAGE GROUP 2	12.27	7%	10.3%	a	1.8%
WAGE GROUP 3	11.66	7%	10.3%	a	1.8%
WAGE GROUP 4	11.14	7%	10.3%	a	1.8%
WAGE GROUP 5	10.77	7%	10.3%	a	1.8%
WAGE GROUP 6	10.42	7%	10.3%	a	1.8%
WAGE GROUP 7	9.68	7%	10.3%	a	1.8%

DECISION #PA77-3060 - Mod. # 5 (42 FR 26179 - May 20, 1977) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS: HEAVY CONSTRUCTION					
GROUP 1	$12.44.	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION					
GROUP 1	10.84	7%	10.3%	a	1.8%
GROUP 2	10.00	7%	10.3%	a	1.8%
GROUP 3	9.49	7%	10.3%	a	1.8%
GROUP 4	9.05	7%	10.3%	a	1.8%
GROUP 5	8.05	7%	10.3%	a	1.8%
GROUP 6	11.09	7%	10.3%	a	1.8%
GROUP 6-A	11.34	7%	10.3%	a	1.8%
GROUP 6-B	11.59	7%	10.3%	a	1.8%

DECISION #PA77-3107 - Mod. # 10 (42 FR 43353 - August 26, 1977) Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators:					
Class I	$12.75	7%	10.3%		1.8%
Class II	12.49	7%	10.3%		1.8%
Class III	11.62	7%	10.3%		1.8%
Class IV	11.41	7%	10.3%		1.8%
Class V	11.10	7%	10.3%		1.8%
Class VI	10.93	7%	10.3%		1.8%
Class VII	10.42	7%	10.3%		1.8%
Class VIII	9.68	7%	10.3%		1.8%

DECISION #TX78-4025 - Mod. #1 (43 FR 13739 - March 31, 1978) - Statewide Texas

Change Area Covered by Various Zone to Read as Follows:

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector*, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland*, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Cos.

Description of Work: Heavy (excluding tunnels & dams) & Highway Construction (does not include building structures in rest area projects) & Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes & garden type apartments up to & including 4 stories).

*Not to be used for Paving & Utilities Incidental to General Building Construction in Ector & Midland Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4030 - Mod. #2 (43 FR 16115 - April 14, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Cement masons	$ 8.75				
DECISION #TX78-4031 - Mod. #2 (43 FR 16116 - April 14, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Plumbers & pipefitters:					
Zone 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton	9.18	.30	.33		.03
Zone 2 - All other area	9.58	.30	.33		.03
Incidental Paving & Utilities:					
Plumbers:					
Zone 1 - 35 mile from Waco, Texas including towns of Temple & Belton	9.18	.30	.33		.03
Zone 2 - All area not included in Zone 1	9.58	.30	.33		.03
DECISION #TX78-4036 - Mod. #2 (43 FR 16125 - April 14, 1978) El Paso County, Texas					
Change:					
Painters - Group 1	7.70	.38			.02
Group 2	8.11	.38			.02
Group 3	8.415	.38			.02
Group 4	7.92	.38			.02
Group 5	9.06	.38			.02
Soft floor layers	7.45	.38	.10		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4040 - Mod. #2 (43 FR 16131 - April 14, 1978) Jefferson & Orange Cos., Texas					
Change:					
Carpenters: Piledrivermen	$11.26	.55	.30		
DECISION #TX78-4041 - Mod. #1 (43 FR 16133 - April 14, 1978) Lubbock County, Texas					
Change:					
Bricklayers & stonemasons	9.67		.30		.03
DECISION #TX78-4043 - Mod. #2 (43 FR 16134 - April 14, 1978) Travis County, Texas					
Change:					
Carpenters: Carpenters	10.41	.48	.40		.04
Millwrights	10.66	.48	.40		.04

SUPERSEDEAS DECISION

STATE: Kansas
COUNTY: Sedgwick
DECISION NO.: KS78-4049
DATE: Date of Publication
Supersedes Decision No.: KS77-4023 dated February 18, 1977 in 42 FR 10233
Description of Work: Highway (does not include bridges over navigable waters, tunnels; building structures in rest area projects; railroad construction) and Water and Sewer Line Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame truck	$ 3.90				
Asphalt paving machine	4.70				
Asphalt spreader screed operator	4.35				
Asphalt raker	4.00				
Batching plant scaleman	4.10				
Bulldozer operator	4.70				
Carpenters	4.50				
Carpenters tender	4.00				
Cement masons	4.55				
Compressor operator	4.00				
Concrete finisher (paving)	4.55				
Concrete paver	4.70				
Concrete paving curing machine	4.35				
Concrete saw	4.00				
Crane, or any machine power swing	5.00				
Distributor operator	4.35				
Finishing machine operator	4.22				
Form liner and setter	3.75				
Front end loader, over 1 C.Y.	4.55				
Front end loader, 1 C.Y. & less	4.20				
Laborer (Construction & General)	3.50				
Mechanic	5.00				
Mechanic helper	4.35				
Motor grader operator (finish)	5.00				
Motor grader operator (rough)	4.70				
Reinforcing steel setter	4.00				
Roller, pneumatic (self-propelled)	4.20				
Roller, steel (self-propelled)	4.20				
Roller, steel wheel (plant mix)	4.20				
Rotary broom operator	4.00				
Slurry machine operator	4.55				
Tractor operator, 50 HP or less	3.65				
Tractor operator, over 50 HP	4.20				
Trucks:					
Light	3.85				
Single axle	3.85				
Tandem axle	4.35				
Welder	4.35				

SUPERSEDEAS DECISION

STATE: Kansas
COUNTIES: Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Grove, Graham, Grant, Gray, Greely, Hamilton, Haskel Hodgeman, Jewell, Kearny, Kiowa, Lane, Lincoln, Logan, Meade, Mitchell, Morton, Ness, Norton, Osborn Pawnee, Phillips, Pratt, Rawlings, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Thomas, Trego, Wallace, and Wichita
DECISION NO.: KS78-4050
DATE: Date of Publication
Supersedes Decision No. KS77-4024 dated February 18, 1977 in 42 FR 10234
Description of Work: Highway (does not include bridges over navigable waters, tunnels; building structures in rest area projects; railroad construction) and Water and Sewer Line Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck	$ 3.55				
Air tool man	3.40				
Asphalt paving machine	4.50				
Asphalt spreader screed operator	3.80				
Asphalt plant heater attendant	3.85				
Asphalt plant operator	4.75				
Asphalt raker	3.30				
Back hoe	4.50				
Batching plant scaleman	4.00				
Blowing mechanism on straw blower	3.50				
Boring machine	4.00				
Brick mason	4.65				
Bulldozer operator	4.50				
Carpenters	4.65				
Carpenter tender	3.85				
Cement masons	4.30				
Compressor operator	3.85				
Concrete finisher (paving)	4.30				
Concrete paver	4.50				
Concrete saw	4.00				
Conveyor operator	4.00				
Crane, or any machine power swing	4.75				
Crushers & screening plant opr.	4.15				
Distributor operator	4.15				
Electrician	5.50				
Finishing machine operator	4.30				
Form liner and setter	3.85				
Front end loader, over 1 C.Y.	4.14				
Front end loader 1 C.Y. & less	4.00				
Harrow, Disc, Seeder	3.50				
Hot Mastic Kettleman	4.00				
Ironworkers (ornamental & structural)	3.55				
Laborer (Construction & General)	3.30				
Loader operator	3.68				
Mechanic	4.75				
Mechanic helpers	4.15				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mixer (skip)	3.85				
Motor grader operator (finish)	4.40				
Motor grader operator (rough)	4.50				
Motor scraper operator	3.47				
Oilers - greaser	4.15				
Painters (Structural steel & bridge)	$ 4.15				
Piledriverman	3.85				
Pipelayer	3.55				
Post driver operator	4.30				
Push cat operator	4.50				
Reinforcing steel setter	3.85				
Roller, pneumatic (self-propelled)	4.00				
Roller, not asphalt (self-propelled)	3.85				
Roller, steel (Self-propelled)	4.00				
Roller, steel wheel (plant mix)	4.00				
Rotary broom operator	3.85				
Sand blaster	4.15				
Scaleman	3.30				
Scoop operator (single engine)	4.30				
Scoop operator (twin engine)	4.65				
Spreader box operator (self-propelled)	4.30				
Tamper operator	3.65				
Tractor (50 H.P. or Less)	3.50				
Tractor operator (Over 50 H.P.)	4.00				
Traveling plant stabilizer	4.65				
Trenching machine operator	4.15				
Trucks:					
Light	3.65				
Single axle	3.65				
Tandem axle	4.15				
Lowboy, semi, transit mix	4.15				
Vibrating machine operator	3.85				
Welder	4.15				

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA78-4052 DATE: Date of Publication
Supersedes Decision No. LA78-4001, dated January 6, 1978, in 43 FR 1276
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories) & Construction of Highways, Roads, Streets (does not include building structures in rest area projects) & Parking Area (except those let with a building contract). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation, includes site preparation & incidental paving & utilities outside the building.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS - ZONE 1	$10.595	.525	.90		.04
ZONE 2	10.03	.40	.76		.025
ZONE 3	9.45	.50	1.10		.05
ZONE 4	9.82	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	10.39	.80	.75		.31
ZONE 2	9.40	.53			
ZONE 3	10.85	.53	.30		.02
ZONE 4	10.80	.45	.30		.035
ZONE 5	10.25				
ZONE 6	9.55	.40	.45		
ZONE 7	8.95		.30		
ZONE 8	10.00		.25		
ZONE 9	10.70				

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Pars.
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes

ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS(BUILDING CONSTRUCTION)					
ZONE 1 - Carpenters	$ 9.00	.50			
Millwrights	9.72	.50			
Piledrivermen	9.90	.50			
ZONE 2 - Carpenters, piledrivermen & soft floor layers	9.745	.40	.33		.05
Millwrights	11.245				.05
ZONE 3 - Carpenters	10.10	.35	.30		
Millwrights	11.75	.35	.30		
Piledrivermen	10.40	.35	.30		
ZONE 4 - Carpenters & piledrivermen	10.60	.40	.50		.04
Millwrights	12.275				.08
ZONE 5 - Carpenters & soft floor layers	10.42	.50	.35		.04
Millwrights	10.81	.50	.35		.04
Piledrivermen	10.52	.50	.35		.04
ZONE 6 - Carpenters & soft floor layers	10.255	.50	.35		.04
Millwrights	10.81	.50	.35		.04
Piledrivermen	10.52	.50	.35		.04
ZONE 7 - Carpenters & soft floor layers	9.50				
Millwrights	10.25				
Piledrivermen	10.00				
ZONE 8 - Carpenters & soft floor layers	9.30	.40	.35		.04
Millwrights	10.05	.40	.35		.04
Piledrivermen	9.55	.40	.35		.04
ZONE 9 - Carpenters & soft floor layers	9.30				
Millwrights	10.05				
Piledrivermen	9.80				
ZONE 10 - Carpenters & soft floor layers	9.20	.50	.30		.05
Millwrights	10.10	.50	.30		.05
Piledrivermen	9.70	.50	.30		.05

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars. Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes

ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION):					
ZONE 1	$ 9.76				
ZONE 2	10.76				
ZONE 3	10.87				
ZONE 4	10.175				
ZONE 5	8.87				
ZONE 6	8.65				
ZONE 7	8.10				

ZONE 1 - Bossier & Caddo Parishes
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.

CEMENT MASONS (BUILDING CONSTRUCTION):					
ZONE 1	9.51				
ZONE 2	9.45				
ZONE 3	8.90	.50	.50		.05
ZONE 4	10.145	.45	.40		.04
ZONE 5	9.35				
ZONE 6	6.75				
ZONE 7	8.75	.35			
ZONE 8	8.72		.25		
ZONE 9	7.30		.30		

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (lower half) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 9.00	.45	.30		
ZONE 2	6.45				
ZONE 3	8.75	.35			
ZONE 4	9.10				
ZONE 5	8.60		..		
ZONE 6	8.10				
ZONE 7	8.60				
On concrete lined ditches	8.90	.50	.50		.05
ZONE 8	8.10				
On concrete lined ditches	8.90	.50	.50		.05
ZONE 9	6.30				
ZONE 10	5.72				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U.S. Hwy. 61 in East Feliciana & West Feliciana Pars
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Parishes
ZONE 8 - St. Mary Parish
ZONE 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE 1 - Electricians	$12.30	5%	8%		3/10%
Cable splicers	12.55	5%	8%		3/10%
ZONE 2 - Electricians	10.65	.35	3%		
Cable splicers	11.15	.35	3%		
ZONE 3 - Electricians	12.30	.35	3%+.20		1/10%
Cable splicers	12.55	.35	3%+.20		1/10%
ZONE 4 - Electricians	11.90	.35	3%		2/10%
Cable splicers	12.15	.35	3%		2/10%
ZONE 5 - Electricians	11.65	.35	3%+.30		.03
Cable splicers	11.65	.35	3%+.30		.03
ZONE 6 - Electricians	10.85	.65	3%		1/2%
Cable splicers	11.35	.65	3%		1/2%
ZONE 7 - Electricians	11.40	1.00	3%		1%
Cable splicers	11.90	1.00	3%		1%
ZONE 8 - Electricians	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
ZONE 2 - Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day
ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	$ 9.65				.02
ZONE 2	8.15				.01
ZONE 3	10.025	.17	.30		.01
ZONE 4	7.88		.30		.04
ZONE 5	6.80				
ZONE 6	8.10				

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 5 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes
ZONE 6 - St. Tammany (northern portion), Tangipahoa (east of Hwy. 51) & Washington Pars.

IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	10.76	.63	.35		.04
ZONE 2	10.99	.45	.65		.04
ZONE 3	10.75	.45	.50		.04
ZONE 4	10.75	.45	.95		.06
ZONE 5	8.80	.45	.85		.04
ZONE 6	10.30	.35	.60		.025

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the southern border of Rapides Par.)
ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)
ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line)
ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION					
ZONE 1	$10.92				
ZONE 2	8.70				
ZONE 3	10.50				
ZONE 4	10.36				
ZONE 5	8.65				
ZONE 6	8.10				
ZONE 7	6.99				
ZONE 8	6.45				
ZONE 9	5.84				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Calcasieu Parish
ZONE 4 - Bossier & Caddo Parishes
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Pars.
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

LABORERS (BUILDING CONSTRUCTION					
ZONE 1 - GROUP 1	6.45	.15			
GROUP 2	6.60	.15			
GROUP 3	6.70	.15			
ZONE 2 - GROUP 1	6.07	.15	.10		.05
GROUP 2	6.27	.15	.10		.05
ZONE 3 - GROUP 1	7.55	.15	.10		.05
GROUP 2	7.65	.15	.10		.05
GROUP 3	7.70	.15	.10		.05
GROUP 4	8.51	.15	.10		.05
GROUP 5	8.07	.15	.10		.05
GROUP 6	7.81	.15	.10		.05
GROUP 7	7.60	.15	.10		.05
ZONE 4 - GROUP 1	7.12	.25	.27		.05
GROUP 2	7.22	.25	.27		.05
GROUP 3	7.27	.25	.27		.05
ZONE 5 - GROUP 1	6.72	.25	.27		.05
GROUP 2	6.82	.25	.27		.05
GROUP 3	6.87	.25	.27		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6 - GROUP 1	$ 7.65	.25	.27		.05
GROUP 2	7.75	.25	.27		.05
GROUP 3	7.90	.25	.27		.05
GROUP 4	7.81	.25	.27		.05
GROUP 5	7.91	.25	.27		.05
ZONE 7 - GROUP 1	7.325	.25	.27		.05
GROUP 2	7.475	.25	.27		.05
GROUP 3	7.525	.25	.27		.05
ZONE 8 - GROUP 1	5.71	.15	.10		.05
GROUP 2	5.91	.15	.10		.05
GROUP 3	5.96	.15	.10		.05
GROUP 4	6.01	.15	.10		.05
GROUP 5	6.36	.15	.10		.05
ZONE 9 - GROUP 1	6.25	.15	.10		.05
GROUP 2	6.35	.15	.10		.05
GROUP 3	6.40	.15	.10		.05
GROUP 4	6.45	.15	.10		.05
ZONE 10 - GROUP 1	6.00	.15	.10		.05
GROUP 2	6.10	.15	.10		.05
GROUP 3	6.25	.15	.10		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)
GROUP 1 - Building and labor construction
GROUP 2 - Stone mason helpers; mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewmen
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers, wrappers & dopers
LABORERS - ZONE 3
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners
GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equip.
GROUP 3 - Mortar mixers & jackhammer ops.
GROUP 4 - Blasterers
GROUP 5 - Blaster helpers; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker
GROUP 6 - Wiping joints, laying pipe & tile from pumpcrete
GROUP 7 - Interior of closed tanks & vessels manually
LABORERS - ZONES 4 & 5
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

GROUP 1 - Building laborers
GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sand blaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers
LABORERS - ZONE 7
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, vibratormen
GROUP 3 - Mortar mixers
LABORERS - ZONE 8
GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterers tenders; stone masons helpers; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster helpers
GROUP 5 - Powderman
LABORERS - ZONE 9
GROUP 1 - Building laborers
GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack ops., vibrator ops.; sewer pipelayers, sewer pipe wrappers
LABORERS - ZONE 10
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterer) stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters helpers
GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U.S. Hwy. 61 (Airline Hwy.) then west on U.S. 61 to Blind River & on a direct line to Manchac)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie) & Terrebonne Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

LABORERS (HIGHWAY CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1 - ZONE 1	$6.13	.20	.27		.05
ZONE 2	4.80	.15	.10		.05
ZONE 3	5.58	.20	.12		.05
ZONE 4	6.28	.20	.12		.05
ZONE 5	5.38	.20	.12		.05
ZONE 6	5.18	.20	.12		.05
ZONE 7	4.10	.15	.10		.05
ZONE 8	3.85	.15	.10		.05
ZONE 9	3.75	.15	.10		.05
GROUP 2 - ZONE 1	6.23	.20	.27		.05
ZONE 2	4.90	.15	.10		.05
ZONE 3	5.68	.20	.12		.05
ZONE 4	6.38	.20	.12		.05
ZONE 5	5.48	.20	.12		.05
ZONE 6	5.28	.20	.12		.05
ZONE 7	4.20	.15	.10		.05
ZONE 8	3.95	.15	.10		.05
ZONE 9	3.85	.15	.10		.05
GROUP 3 - ZONE 1	6.68	.20	.27		.05
ZONE 2	5.35	.15	.10		.05
ZONE 3	6.13	.20	.12		.05
ZONE 4	6.83	.20	.12		.05
ZONE 5	5.93	.20	.12		.05
ZONE 6	5.73	.20	.12		.05
ZONE 7	4.65	.15	.10		.05
ZONE 8	4.40	.15	.10		.05
ZONE 9	4.30	.15	.10		.05
GROUP 4 - ZONE 1	6.93	.20	.27		.05
ZONE 2	5.60	.15	.10		.05
ZONE 3	6.38	.20	.12		.05
ZONE 4	7.08	.20	.12		.05
ZONE 5	6.13	.20	.12		.05
ZONE 6	5.93	.20	.12		.05
ZONE 7	4.85	.15	.10		.05
ZONE 8	4.60	.15	.10		.05
ZONE 9	4.50	.15	.10		.05

GROUP 1 - Laborers, including but not limited to signalman, foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter helpers, distributor man, finisher helpers, formsetter helpers, jackhammer op.; jetting laborer, painter helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone mason helpers, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS - ZONE 1	$ 8.90				.01
ZONE 2	9.48	.20	.30		.05
ZONE 3	10.585	.30			.01
ZONE 4	10.75				
ZONE 5	7.90				.01

ZONE 1 - All of Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, Vermilion, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (up to a 40 mile radius of Baton Rouge); Parts of Evangeline & St. Mary Pars. (up to a 40 mile radius of Lafayette)
ZONE 2 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars., Parts of Assumption & St. James Pars. (beyond a 40 mile radius of Baton Rouge); Part of St. Mary Par. (beyond a 40 mile radius of Lafayette)
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (that portion beyond a 40 mile radius of Lafayette), Jefferson Davis & Vernon Pars.
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Parishes
ZONE 5 - Rapides Parish

LINE CONSTRUCTION					
ZONE 1 - GROUP 1	$11.65	.35	3%+.30		.03
GROUP 2	75%JR	.35	3%+.30		.03
GROUP 3	65%JR	.35	3%+.30		.03
GROUP 4	45%JR	.35	3%+.30		.03
GROUP 5	50%JR	.35	3%+.30		.03

GROUP 1 - Linemen
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines
GROUP 4 - Op. using truck without winch; Groundmen (starting rate to 1½ yrs. service)
GROUP 5 - Groundmen (1½ yrs. service or over)

ZONE 2					
Linemen, line equipment & line truck ops.	12.30	5%	8%		3/10%
Cable splicers	12.55	5%	8%		3/10%
ZONE 3 - Linemen, equipment ops.	12.30	.35	3%+.20		1/10%
Cable splicers	12.55	.35	3%+.20		1/10%
Groundmen	10.30	.35	3%+.20		1/10%
ZONE 4 - Linemen, equipment ops.	11.90	.35	3%		
Cable splicers	12.15	.35	3%		
Groundmen	50%JR	.35	3%		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ZONE 5					
Linemen & equipment ops.	$11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%
Groundmen	60%JR		3%	.30	1/2%
ZONE 6					
Linemen & equipment ops.	10.85	.65	3%		1/2%
Cable splicers	11.35	.65	3%		1/2%
Groundman, 1st 6 months	2.65	.65	3%		1/2%
Groundman, 2nd 6 months	3.24	.65	3%		1/2%
Groundmen, after 1 year	3.53	.65	3%		1/2%
ZONE 7					
Linemen; Operators	11.40	1.00	3%		1%
Cable splicers	11.90	1.00	3%		1%
Groundmen	9.40	1.00	3%		1%

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

MARBLE, TILE & TERRAZZO WORKERS & FINISHERS					
ZONE 1 - Marble setters	10.80	.45	.30		.035
Tile & terrazzo workers	9.10	.25			
Marble, tile & terrazzo finishers	6.75	.25			
ZONE 2 - Marble & terrazzo workers	10.85	.53	.30		.02
Tile setters	7.65	.48	.30		.02
ZONE 3 - Marble setters	10.70				
Terrazzo workers	8.75				
ZONE 4 - Marble, tile & terrazzo workers	8.97		.25		
ZONE 5 - Marble, tile & terrazzo workers	8.55	.30			
ZONE 6 - Marble, tile & terrazzo workers	11.10				
Marble, tile & terrazzo finishers	6.75	.25			
ZONE 7 - Tile setters	10.25				
Tile finishers	6.75	.25			

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 7 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1 - GROUP 1	$10.36				
GROUP 2	10.485				
GROUP 3	10.56				
GROUP 4	10.705				
GROUP 5	10.845				
ZONE 2 - GROUP 1	9.35		.25		.05
GROUP 2	10.32		.25		.05
ZONE 3 - GROUP 1	8.575	.275	.30		.05
GROUP 2	8.95	.275	.30		.05
GROUP 3	9.825	.275	.30		.05
ZONE 4 - GROUP 1	8.10				
GROUP 2	8.40				
GROUP 3	8.15				
GROUP 4	9.00				
GROUP 5	9.25				
GROUP 6	8.55				
GROUP 7	8.40				
ZONE 5 - GROUP 1	8.50				
GROUP 2	9.00				
GROUP 3	9.50				
ZONE 6 - GROUP 1	8.85	.40	.30		.05
GROUP 2	9.10	.40	.30		.05
GROUP 3	9.35	.40	.30		.05
GROUP 4	9.45	.40	.30		.05
ZONE 7 - GROUP 1	7.30				
GROUP 2	8.30				
GROUP 3	7.80				

ZONE 1 - GROUP 1 - Brush, wood or wall, rollers
GROUP 2 - Brush on steel, buffer on wood or wall
GROUP 3 - Paperhanging, taping & floating
GROUP 4 - Spray, wood or wall
GROUP 5 - Steeplejack, sandblasting, spider op.; rubberizing & pyroflexing, steam jennies, spray on steel
ZONE 2 - GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel; sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers

ZONE 5 - GROUP 1 - Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 6 - GROUP 1 - Painters, tape, float & paperhangers; stage, window jacks & structural steel
GROUP 2 - Stage, window jacks & structural steel over 30 ft.
GROUP 3 - Stage, window jacks & structural steel over 75 ft.
GROUP 4 - Sandblasting, spray
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
GROUP 3 - Structural steel brush
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern portion), Tangipahoa (east og Hwy. 51) & Washington Pars.
ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half) Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS -	ZONE 1	$ 9.70				.01
	ZONE 2	8.50				
	ZONE 3	10.07				.01
	ZONE 4	9.75				.03
	ZONE 5	7.05	.30	.20		.01
	ZONE 6	7.00			1.00	
	ZONE 7	9.75				
	ZONE 8	10.00		.25		
	ZONE 9	8.95		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS -	ZONE 1	$11.00	.45	.75		.08
	ZONE 2	10.85	.64	.875		.06
	ZONE 3	10.65	.50	.55		.10
	ZONE 4	10.34	.40	.50	.95	.09
	ZONE 5	11.15	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par.), St. Martin (southern part of eastern 1/2 of Par.), St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/2 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)						
ZONE 1 -	GROUP 1	7.19	.65	.48		.05
	GROUP 2	7.55	.65	.48		.05
	GROUP 3	7.88	.65	.48		.05
	GROUP 4	7.97	.65	.48		.05
	GROUP 5	8.29	.65	.48		.05
	GROUP 6	9.77	.65	.48		.05
ZONES 2, 3 & 4 -	GROUP 1	7.59	.65	.48		.05
	GROUP 2	7.95	.65	.48		.05
	GROUP 3	8.31	.65	.48		.05
	GROUP 4	8.37	.65	.48		.05
	GROUP 5	8.73	.65	.48		.05
	GROUP 6	10.27	.65	.48		.05
ZONE 5 -	GROUP 1	7.43	.65	.48		.05
	GROUP 2	7.11	.65	.48		.05
	GROUP 3	6.90	.65	.48		.05
	GROUP 4	7.71	.65	.48		.05
	GROUP 5	10.095	.65	.48		.05
	GROUP 6	8.12	.65	.48		.05
	GROUP 7	8.80	.65	.48		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6 - GROUP 1	$ 8.01	.65	.48		.05
GROUP 2	7.41	.65	.48		.05
GROUP 3	7.20	.65	.48		.05
GROUP 4	7.71	.65	.48		.05
GROUP 5	8.45	.65	.48		.05
GROUP 6	9.62	.65	.48		.05
GROUP 7	10.73	.65	.48		.05
GROUP 8	10.98	.65	.48		.05
GROUP 9	11.23	.65	.48		.05
GROUP 10	11.48	.65	.48		.05
ZONE 7 - GROUP 1	10.33	.65	.65		.05
GROUP 2	10.58	.65	.65		.05
GROUP 3	7.50	.65	.65		.05
GROUP 4	7.89	.65	.65		.05
GROUP 5	8.65	.65	.65		.05
GROUP 6	10.08	.65	.65		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-Driver

GROUP 4 - Scaleman

GROUP 5 - Air compressor; Asphalt plant; Bulldozers, D-4 & equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete Mixer (16-s or less); Concrete saw; Distributors (Bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 6 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings) Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Well point system; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale Op.; Oiler-driver on motor crane; Batch plant

GROUP 2 - Pumps under 3 inch suction; Mechanic helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; Combination oiler-fireman; Asphalt spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry pickers (all types); Concrete mixers (over 1 sack); Cranes; Deck winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork lifts (other than farm type) outside warehouses; Foundation drill; Front end loaders (except farm type); Grease serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 ft. on structures other than buildings); Hoist (2 drums or over); Locomotives (all types); Mechanic; Mixer Plant-Central Mix; Motor patrols; Pildrivers; Pull cat; Pump crete-6" & over discharge; Push cat; Road pavers; Rollers (Plant mix asphalt); Scrapers; Shovels; Sidebooms; Unit op.; Welder, journeyman; Well point system; Whirleys; Winch cats (Cat D-4 & over); Winch truck with A-frame (5 ton & over); Work boats-requiring licensed op.

GROUP 6 - Bush hog; Compressor; Concrete pump-under 6" discharge; Concrete saw; Deck winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel bar machine; Farm-type tractors (when used to pull discs, grasscutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; Mixers (1 sack & under); Motorized street sweepers self-propelled; Pump (3" & over); Test pump-internal combustion engine powered; Water blast pumps

GROUP 7 - Asphalt plant; Boom trucks; Bullfloats; Concrete spreader; Farm-type front end loaders; Finishing machines (roadway, riding type); Roller (other than plant mix asphalt); Straddle buggies; Winch truck with A-frame (under 5 tons); Work boat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; Pumps, 3 inch suction or more

GROUP 2 - Pumps, under 3 inch suction; Mechanic helper

GROUP 3 - Oiler

GROUP 4 - Batch plant operator

GROUP 5 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated bush hog & similar grass or bush cutting equipment

GROUP 6 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator; Scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit op.; Hoist-1 drum, 4 stories or over

GROUP 7 - Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Crane; Dragline; Dredge; Equipment maintenance mechanic; Hoist-2 drums; Locomotive crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom cats; Bulldozer; Motor patrol; Scraper; Hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pump crete)

GROUP 8 - Crane,60 tons & over; Crane,boom 100 ft. & over; Piledriver, leads 100 ft. & over

GROUP 9 - Crane,100 tons & over; Crane,boom 150 ft. & over; Piledriver, leads 150 ft. & over

GROUP 10 - Crane,boom 250 ft. & over; Piledriver, leads over 250 feet

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic

GROUP 2 - Master mechanic

GROUP 3 - Oilers

GROUP 4 - Batch plant op.; Mechanic helpers; Oilers (drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; Air compressor Asphalt plant engineers; Asphalt finisher, screed men; Blade graders; Boat op.; Bullfloats; Concrete joining machines; Concrete mixers, 16s & under; Concrete spreader; Crusher; Deck winch (1); Distributors, asphalt "Ditch Witch" & similar equipment; Electric elevators (inside); Finishing machine; Fireman; Form grader; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgrader; Pug mill; Pull tractors; Pump, pump crete; Rollers, except on brick & asphalt; Rubber tired front end loader (with or without blade attachments) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Track machines & equivalent machines; Tractors or bulldozers smaller than D-6

GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; Bulldozers D-6 & larger; Cableways; Concrete mixers, over 16-s paving machines; Cranes, derricks; Draglines & clam shells; Deck winches (2); Gradealls; Hi-ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanic; Motor patrols; Pile-drivers; Rollers on brick & asphalt; Rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; Scrapers; Shovels; Backhoes (all types); Sideboom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Unit op.; Welder, journeymen; Well point systems (gas, diesel, electric, etc.); Concrete pump-boom combinations

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes
ZONE 3 - All of Acadia, Lafayette & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of the Iberville-St. Landry Pars. border)
ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the La.-Miss. border)
ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La.-Miss. boundary in Washington Par., due north of the town of Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1 - ZONE 1	$ 9.76	.65	.55		.05
ZONE 2	8.31	.25	.39		.05
ZONE 3	9.23	.65	.55		.05
ZONE 4	9.41	.65	.55		.05
ZONE 5	7.45	.65	.55		.05
ZONE 6	6.95	.65	.55		.05
ZONE 7	6.69	.25	.30		.05
ZONE 8	6.14	.25	.30		.05
ZONE 9	5.53	.25	.30		.05
GROUP 2 - ZONE 1	10.01	.65	.55		.05
ZONE 2	8.56	.25	.39		.05
ZONE 3	9.48	.65	.55		.05
ZONE 4	9.66	.65	.55		.05
ZONE 5	7.70	.65	.55		.05
ZONE 6	7.20	.65	.55		.05
ZONE 7	6.94	.25	.30		.05
ZONE 8	6.39	.25	.30		.05
ZONE 9	5.78	.25	.30		.05
GROUP 3 - ZONE 1	9.51	.65	.55		.05
ZONE 2	8.06	.25	.39		.05
ZONE 3	8.98	.65	.55		.05
ZONE 4	9.16	.65	.55		.05
ZONE 5	7.20	.65	.55		.05
ZONE 6	6.70	.65	.55		.05
ZONE 7	6.44	.25	.30		.05
ZONE 8	5.89	.25	.30		.05
ZONE 9	5.28	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 4 - ZONE 1	$ 8.26	.65	.55		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.93	.65	.55		.05
ZONE 4	7.94	.65	.55		.05
ZONE 5	6.23	.65	.55		.05
ZONE 6	5.73	.65	.55		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 5 - ZONE 1	7.91	.65	.55		.05
ZONE 2	6.39	.25	.39		.05
ZONE 3	7.34	.65	.55		.05
ZONE 4	7.33	.65	.55		.05
ZONE 5	5.71	.65	.55		.05
ZONE 6	5.21	.65	.55		.05
ZONE 7	5.02	.25	.30		.05
ZONE 8	4.48	.25	.30		.05
ZONE 9	3.97	.25	.30		.05
GROUP 6 - ZONE 1	7.11	.65	.55		.05
ZONE 2	5.75	.25	.39		.05
ZONE 3	6.53	.65	.55		.05
ZONE 4	6.53	.65	.55		.05
ZONE 5	4.98	.65	.55		.05
ZONE 6	4.48	.65	.55		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 7 - ZONE 1	6.80	.65	.55		.05
ZONE 2	5.46	.25	.39		.05
ZONE 3	6.19	.65	.55		.05
ZONE 4	6.19	.65	.55		.05
ZONE 5	4.69	.65	.55		.05
ZONE 6	4.19	.65	.55		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 8 - ZONE 1	8.16	.65	.55		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.83	.65	.55		.05
ZONE 4	7.84	.65	.55		.05
ZONE 5	6.18	.65	.55		.05
ZONE 6	5.68	.65	.55		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 9 - ZONE 1	8.41	.65	.55		.05
ZONE 2	7.38	.25	.39		.05
ZONE 3	8.08	.65	.55		.05
ZONE 4	8.09	.65	.55		.05
ZONE 5	6.43	.65	.55		.05
ZONE 6	5.93	.65	.55		.05
ZONE 7	5.83	.25	.30		.05
ZONE 8	5.27	.25	.30		.05
ZONE 9	4.71	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 10 - ZONE 1	7.05	.65	.55		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	6.44	.65	.55		.05
ZONE 4	6.44	.65	.55		.05
ZONE 5	4.94	.65	.55		.05
ZONE 6	4.44	.65	.55		.05
ZONE 7	5.11	.25	.30		.05
ZONE 8	4.56	.25	.30		.05
ZONE 9	4.06	.25	.30		.05

GROUP 1 - 60 ton crane & over; Crane with 125' boom
GROUP 2 - Crane with 175' boom
GROUP 3 - Crane all types; deck winches (2); Hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers; bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types, & equivalent equipment; piledrivers; sideboom cats; A-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork lifts over 10 ton capacity; foundation drilling machines
GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type, rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
GROUP 6 - Mechanic helper; Batch plant operator
GROUP 7 - Oiler
GROUP 8 - Fireman
GROUP 9 - Fireman operating steam valve
GROUP 10 - Oiler on crane using air to drive piles

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron, Jefferson Davis & Red River Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin, (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana, & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1 - Roofers	$ 9.73		.10		
ZONE 2 - Roofers	8.24	.70	.65	.20	.70
ZONE 3 - Roofers	8.61	.35	.55		.04
ZONE 4 - Roofers	7.90		.10		
Kettlemen	7.15		.10		
ZONE 5 - Roofers	9.10		.20		.02
Kettlemen	6.31		.20		.02

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

SHEET METAL WORKERS -	ZONE 1	10.97	.40	.27		.10
	ZONE 2	10.55	3%+.55	.81		.14
	ZONE 3	11.65	.40	.50		.12
	ZONE 4	9.94	3%+.55	.40		.16

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

SPRINKLER FITTERS		10.80	.75	1.05		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION)						
ZONE 1 -	GROUP 1	4.91				
	GROUP 2	5.34				
	GROUP 3	5.55				
	GROUP 4	5.35				
	GROUP 5	5.45				
	GROUP 6	5.37				
	GROUP 7	5.76				
ZONE 2 -	GROUP 1	6.70				
	GROUP 2	6.95				
	GROUP 3	7.50				
	GROUP 4	7.35				
	GROUP 5	7.80				
	GROUP 6	7.90				
	GROUP 7	8.20				
	GROUP 8	8.35				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - GROUP 1	$ 5.47				
GROUP 2	5.55				
GROUP 3	5.80				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				
ZONE 4 - GROUP 1	7.80				
GROUP 2	8.10				
GROUP 3	8.25				
GROUP 4	8.45				
GROUP 5	8.60				
GROUP 6	8.40				

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; Mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to & including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds.

ZONE 2 - GROUP 1 - Teamster, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.

ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

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TRUCK DRIVERS (HIGHWAY CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1 - ZONE 1	$ 6.38	.45			
ZONE 2	5.49				
ZONE 3	6.56				
ZONE 4	6.99				
ZONE 5	5.67				
ZONE 6	5.77				
ZONE 7	4.45				
ZONE 8	4.35				
ZONE 9	4.25				
GROUP 2 - ZONE 1	6.51	.45			
ZONE 2	5.61				
ZONE 3	6.66				
ZONE 4	7.12				
ZONE 5	5.80				
ZONE 6	5.90				
ZONE 7	4.56				
ZONE 8	4.46				
ZONE 9	4.36				
GROUP 3 - ZONE 1	6.57	.45			
ZONE 2	5.66				
ZONE 3	6.89				
ZONE 4	7.18				
ZONE 5	5.86				
ZONE 6	5.96				
ZONE 7	4.61				
ZONE 8	4.51				
ZONE 9	4.41				
GROUP 4 - ZONE 1	6.65	.45			
ZONE 2	5.73				
ZONE 3	7.10				
ZONE 4	7.25				
ZONE 5	5.93				
ZONE 6	6.03				
ZONE 7	4.67				
ZONE 8	4.57				
ZONE 9	4.47				
GROUP 5 - ZONE 1	6.84	.45			
ZONE 2	5.89				
ZONE 3	7.52				
ZONE 4	7.44				
ZONE 5	6.13				
ZONE 6	6.22				
ZONE 7	4.83				
ZONE 8	4.73				
ZONE 9	4.63				

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

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ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Cameron & Jefferson Davis Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St.Landry, St. Martin, (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Ohio
COUNTIES: Fulton & Lucas
DECISION NO.: OH78-2055
DATE: Date of Publication
Supersedes Decision No. OH78-2003, dated February 10, 1978 in 43 FR 5992
DESCRIPTION OF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.43	.50	1.20		.04
BOILERMAKERS	13.10	.70	1.00		.03
BRICKLAYERS; Marble Setters; & Stonemasons:					
Fulton (Twps. of Amboy, Swan Creek & Fulton); & Lucas Cos.	12.155	.93	.90		.01
Fulton Co. (Remainder of Co.):					
Commercial	11.72	.93			
Residential	9.38	.93			
CARPENTERS; Millwrights; & Piledrivermen	12.32	.93	.75		.05
CEMENT MASONS	13.34	.60			.02
ELECTRICIANS:					
Commercial	13.80	.65	3%+.55		.1%
Residential	7.59	.65	3%+.55		.1%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	12.355	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS	11.175	.55	1.00		.01
IRONWORKERS	12.30	.93	1.11		.05
LATHERS	12.38	.93	.10		.01
LINE CONSTRUCTION:					
Linemen	13.46	.50	3%	c	½%
Cable Splicers	13.71	.50	3%	c	½%
PAINTERS:					
Commercial:					
Brush; Drywall Tapers; Paperhangers	10.81	.93	.90		
Bridge; Railings; Powerhouse; Refinery Tanks	11.06	.93	.90		
Sandblasting; Spray; Pressure Cleaning	11.36	.93	.90		
Residential Work	9.67	.93	.90		
PLASTERERS	13.00	.60			.01
PLUMBERS; Steamfitters; Pipefitters	12.83	.80	.85		.09
ROOFERS	12.11	.93	.85		.02
SHEET METAL WORKERS	12.195	.93	1.15		.045

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Commercial	$10.90	.93	.50		.04
Residential	10.30	.93	.50		.04
SPRINKLER FITTERS	12.75	.75	1.05		.08
TERRAZZO WORKERS; Tile Setters	11.81	.93	.50		
TERRAZZO WORKERS' FINISHERS; & Tile Setters' Finishers	10.10	.65	.40	.50	

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a. Seven paid holidays: A through F, & Day after Thanksgiving
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. Ten paid holidays: A through F, Good Friday, Day after Thanksgiving Day, Christmas Eve, & New Year's Eve.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fulton County:					
Unskilled laborers	$ 8.97	.65	.40		.10
Mason tenders; Gunite pot men	9.09	.65	.40		.10
All power driven tools & buggies; burners; Torchmen; Nozzlemen for concrete pump	9.115	.65	.40		.10
Plasterers' tenders	9.145	.65	.40		.10
Nozzle operators for gunite work	9.62	.65	.40		.10
Bellmen; Bottom men; Brick expeditor	9.205	.65	.40		.10
Lucas County:					
Unskilled laborers	10.81	.65	.55		.11
Mason Tenders	10.94	.65	.55		.11
Gunnite pot men; Mortar mixers	11.01	.65	.55		.11
Concrete pump nozzle men; All power driven tools; Power buggies	10.965	.65	.55		.11
Pipe layers; Bellmen; Bottom men for fire brick work only					
Nozzle operators for gunnite work	11.72	.65	.55		.11

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.89	.66	1.00		.11
GROUP B	12.73	.66	1.00		.11
GROUP C	12.38	.66	1.00		.11
GROUP D	11.57	.66	1.00		.11
GROUP E	11.24	.66	1.00		.11
GROUP F	9.28	.66	1.00		.11

GROUP A - A-frames; rotary drills used on caisson work for foundations and sub-structure work; boiler or compressor operator mounted on crain (piggyback operation); boom truck (all types); cableways; cherry pickers; combination concrete mixer and tower; concrete pumps; cranes (all types); derricks (all types); draglines; dredge (dipper, clam or suction) 3 man crew; elevating grader or euclid loader; floating equipment; gradalls, helicopter operator and helicopter winch operator when hoisting builders materials; hoes (all types); hoisting engines (two or more drums); lift slab or panel jack operator; locomotives (all types); maintenance engineer (mechanic or welder); mixers paving (multiple drum); mobile concrete pumps with boom; panelboard (all types on site); pile driver; power shovels; side booms; slip form pavers; straddle carriers (building construction on site); hammerhead tower cranes; trench machines (over 24" wide); tug boat.

GROUP B - Asphalt paver; bulldozer; C.M.I type equipment; endloaders; Kohlman type loaders (dirt loading); lead greaseman; mucking machines; power grader; power scoops; power scrapers; push cat.

GROUP C - Air compressor (pressurizing shafts or tunnels); asphalt rollers; fork lifts; hoist (one drum); house elevators; man lift; power boilers (over 15 lbs. pressure); pump operators installing well points or other type of dewatering system; pumps (4" and over discharge); submersible pumps (4" and over discharge); trenchers 24" and under.

GROUP D - Compressors on building construction; conveyors (building material) generators; gunnite machines; mixers (capacity more than one bag); mixers (one bag capacity, side loader); post driver; post hole digger; pavement breaker (hydraulic or cable); road widening trencher; rollers; welder operator.

GROUP E - Backfillers & tampers; batch plant; bar and joint installing machines; bullfloats; burlap and curing machines; clefplanes; concrete spreading mach.; crushers; deck hands; drum firemen (asphalt); farm type tractors pulling attachments; finishing machines; form trenchers; high pressure pumps over ½" discharge; hydro seeders; self-propelled power spreader; self-propelled sub-grader; tire repairmen; tractors pulling sheeps foot roller or grader; vibratory compactors (with integral power)

GROUP F - Oiler; helper; signalman; inboard & outboard motor boat launch; light plant operator; power driven heaters (oil fired); power boilers (less than 15 lbs. pressure; pumps under 4" discharge' submersible pumps under 4" discharge.

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *See Below
DECISION NUMBER: OH78-2056 DATE: Date of Publication
Supersedes Decision No.: OH78-2007, dated March 10, 1978 in 43 FR 10257
DESCRIPTION OF WORK: Building Construction (Does not include family homes & garden type apartments up to and including 4 stories)

*ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, DARKE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GEAUGA, GREENE, HAMILTON, HIGHLAND, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MUSKINGUM, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, SHELBY, UNION, AND WARREN

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Adams, Brown, Butler (excluding Middletown & vic.), Clermont, Hamilton, Highland, & Warren (excluding Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	$12.16	.75	1.00		.02
Butler (Middletown & vic.), Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	11.47	.75	1.00		.02
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross & Union Cos.	12.67	.45	.85		.02
Gallia, Lawrence, Meigs, Pike, & Scioto Cos.	12.05	.50	.70		.03
Geauga County	14.78				
BOILERMAKERS:					
Darke, Delaware, Shelby & Union Cos.	13.10	.70	1.00		.03
Geauga Co.	12.23	.60	1.10		.03
Remaining Counties	9.80	1.05	1.10	1.50	.02
BRICKLAYERS; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; & Tile setters:					
Adams & Scioto Cos.:					
Bricklayers; Caulkers; Cleaners; Marble setters; Pointers; & Stonemasons	9.90				
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Israel, Lanier, Somers, & Gratis), & Warren Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.095	.55	.35		.02
Marble setters	11.485	.55	.35		
Terrazzo workers & Tile setters	11.435	.55	.35		
Champaign & Clark Cos.	10.60				
Clinton & Highland Cos.	9.25				
Darke, Miami, & Shelby Cos.	10.35	.75	.25		.02
Delaware, Franklin, Madison, Pickaway, & Union Cos.:					

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BRICKLAYERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers; Stonemasons	10.64	.80	.80		.02
Rubble work	10.24	.40	.80		.01
Marble setters; Terrazzo workers & Tile setters	10.85				
Fairfield & Perry Cos.	9.50	.60	.50		.02
Fayette, Pike & Ross Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	11.35				
Gallia & Meigs Cos.	11.25	.50			
Geauga County	13.22	.60	.80		
Greene, Montgomery, & Preble (Rem. of Co.) Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	10.35	.75	.75		.02
Marble setters; Terrazzo workers; & Tile setters	9.16	.75	.25		
Lawrence County	10.70		.50		.05
Licking & Muskingum Cos.	10.33	.60	.50		.02
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Cos.:					
Carpenters; Soft floor layers	10.17	.50	.75		.03
Piledrivermen	10.46	.50	.75		.03
Millwrights	10.79	.40	.37		.03
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters; Piledrivermen	11.55	.60	.65		.075
Millwrights	11.69	.50	.85		.10
Soft floor layers	8.70	.60	.65		.05
Champaign, Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, & Union Cos.:					
Carpenters	10.14	.53	.70		.02
Millwrights	10.79	.53	.70		.02
Piledrivermen	10.79	.53	.70		.02
Soft floor layers	10.14	.53	.70		.02
Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Carpenters; Piledrivermen	10.35	.65	1.00		.05
Millwrights	10.16	.65	1.00		
Soft floor layers	9.30	.65	.70		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Geauga Co.:					
Carpenters; Soft floor layers	12.87	.85	1.25		.03
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
CEMENT MASONS:					
Adams, Lawrence (excluding Fayette, Union, & Rome Twps.), Pike, & Scioto Cos.	11.02		.60		
Brown, Butler, Clermont, Hamilton & Warren Cos.	11.43	.75	.70		.15
Champaign, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	9.78	.50	.60		.07
Clark County	10.60				
Clinton & Highland Cos.	9.25				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, Ross, & Union Cos.	10.15	.50	.20		.03
Geauga Co. (Twps. of Auburn, Middlefield, Parkman & Troy	11.12	.40			.05
Geauga Co. (Rem. of Co.)	13.22	.60	.80		
Lawrence Co. (Fayette, Union & Rome Twps.)	10.70		.50		.05
ELECTRICIANS:					
Adams, Pike (S. part), & Scioto Cos.	10.75	.50	3%+.50	1.02	.04
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. court House	11.95	.70	3%+.60		½%
18 to 21 mi. radius from Hamilton Co. Court House	12.25	.70	3%+.60		½%
21 to 25 mi. radius from Hamilton Co. Court House	12.35	.70	3%+.60		½%
Over 25 mi. radius from Hamilton Co. Court House	12.50	.70	3%+.60		½%
Butler, & Warren (Twps. of Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington) Cos.:					
W. of Interstate #75:					
Electricians	12.10	.45	3%+.75		½%
Cable Splicers	12.60	.45	3%+.75		½%
E. of Interstate #75:					
Electricians	12.65	.45	3%+.75		½%
Cable Splicers	13.30	.45	3%+.75		½%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Champaign, Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	11.14	.45	3%+.85		.04
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (Rem. of Co.) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	8.58	.75	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	11.81	.75	3%+1.00		.5%
Delaware, Fairfield, Franklin, Madison (E. portion), Pickaway (N. & central portions), & Union Cos.	11.48	.40	3%+.87		.03
Fayette, Highland, Pickaway (S. part), Pike (N. part), & Ross Cos.	11.60	.40	3%		.02
Gallia Co.	11.57	.50	3%+.60	1.00	.04
Geauga Co. (Bainbridge, Chester, & Russell Twps.)	13.75	.55	3%+.48		.02
Geauga Co. (Auburn, Middlefield, Parkman, & Troy Twps.)	12.59	.60	7%		.7%
Geauga Co. (Rem. of Co.)	13.13	.70	3%+.70		.3%
Lawrence Co.	11.12	.50	3%+.60	1.00	.04
Licking Co.	10.80	.40	3%+.62		.03
Meigs Co.	10.65	.50	3%+.77	1.27	.04
Muskingum & Perry Cos.	10.80	.40	3%+.62		.03
Shelby Co.	11.61	.45	3%+.37		.04
ELEVATOR CONSTRUCTORS:					
Adams, Brown, Butler, Clermont, Clinton, Darke, Hamilton, Highland, Miami, Preble, & Warren Cos.:					
Elevator Constructors	11.78	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Champaign, Clark, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Perry, Pickaway, Ross, Shelby & Union Cos.:					
Elevator constructors	11.705	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Gallia & Meigs Cos.:					
Elevator Constructors	11.465	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helper (Prob.)	50%JR				
Geauga Co.:					
Elevator constructors	12.79	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Greene & Montgomery Cos.:					
Elevator constructors	11.78	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (PRob.)	50%JR				
Lawrence, Pike, & Scioto cos.:					
Elevator Constructors	11.465	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Lawrence, & Scioto Cos.	10.60		.70		
Adams, Brown, Butler (Hamilton & Vic.), Clermont, Clinton, Hamilton, Highland (Part), & Warren (Lebanon & south) Cos.	12.10		.60		.01
Champaign, Butler (excluding Hamilton & Vic.), Clark, Darke, Fayette, Highland (Part), Miami, Montgomery, Preble, Shelby, & Warren (North of Lebanon) Cos.	9.88		.50		.01
Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Pike, Ross, & Union Cos.	10.52		.57		.005
Geauga Co.	12.83	.55	.65		.01
IRONWORKERS:					
Adams (Part), Gallia, Lawrence, Pike (Part), & Scioto Cos.:					
To 10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01
10 to 15 mi. from Union Hall In Ashland, Kentucky	11.42	.90	1.05		.01

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IRONWORKERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
15 to 20 mi. from Union Hall in Ashland, Kentucky	11.52	.90	1.05		.01
20 mi. & over from Union Hall in Ashland, Kentucky	11.62	.90	1.05		.01
Adams (Part), Brown, Butler (S. ½ of Co.), Clermont, Hamilton & Warren (S. ½ of Co.) Cos.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.68	.90	1.85		.02
Butler (N. ½ of Co.), Champaign (W. 2/3 of Co.), Clark (W 3/4), Clinton, Darke, Fayette (Part), Greene, Highland (W 4/5), Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.:					
Within 15 mi. radius of Local Union #290 office	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290 office	11.11	.90	1.25		.04
Champaign (Rem. of Co.), Clark (E. ¼), Fayette (Part), Highland (E. 1/5), Muskingum, Perry, Pike (Part), & Ross Cos.	11.10	.90	1.55		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union cos.	11.00	.90	1.55		.05
Franklin Co.	10.85	.90	1.55		.05
Geauga Co.	11.72	1.05	1.20		.03
Meigs Co.	10.92	.75	.85		.01
LATHERS:					
Butler, Champaign, Clinton, Darke, Fayette, Greene, Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.	11.04		.20		.01
Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross, & Union Cos.	11.05		.10		.01
Clermont, Hamilton, Highland, & Warren (S. ½) Cos.	12.52		.25		.025
Geauga Co.	13.88		1.00		.01
Lawrence Co.	10.925		.10		
LINE CONSTRUCTION:					
Adams, Gallia, Lawrence, Meigs, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & Scioto Cos.:					
Linemen; Operators: All mechanized equipment	11.28	.45	3%+.50	1.00	½%
Cable splicers; Linemen welder	12.41	.45	3%+.50	1.00	½%
Groundmen	9.02	.45	3%+.50	1.00	½%
Brown, Clermont, & Hamilton Cos.:					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	11.95	.70	3%+.60		½%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	12.25	.70	3%+.60		½%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.35	.70	3%+.60		½%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.50	.70	3%+.60		½%
Butler & Warren (Twps. of Deerfield, Hamilton, Harlem, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
E. of Interstate 75:					
Linemen	12.65	.45	3%+.75		½%
Cable splicers	13.15	.45	3%+.75		½%
Groundmen:					
0-1 yr.	6.33	.45	3%+.75		½%
1-2 yrs.	7.59	.45	3%+.75		½%
Over 2 yrs.	8.86	.45	3%+.75		½%
W. of Interstate 75:					
Equipment ops.; Linemen	12.10	.45	3%+.75		½%
Cable splicers	12.60	.45	3%+.75		½%
Groundmen:					
0-1 yr.	6.05	.45	3%+.75		½%
1-2 yrs.	7.26	.45	3%+.75		½%
Over 2 yrs.	8.47	.45	3%+.75		½%
Champaign & Clark Cos.:					
Cable splicers; Linemen	9.11	.35	3%		.25%
Equipment ops.:					
0 to ½ yr.	5.49	.35	3%		.25%
½ to 1 yr.	6.54	.35	3%		.25%
1 yr. or more	7.66	.35	3%		.25%
Groundmen or truck drivers:					
0 to 1 yr.	4.47	.35	3%		.25%
1 yr. or more	5.22	.35	3%		.25%
Clinton, Darke, Greene, Miami, Montgomery, Preble, Warren					

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(Twps. of Wayne, Clear Creek & Franklin) Cos.	11.58	.75	3%+1.00		½%
Delaware & Madison Cos. (Twps. of Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant), Pickaway Co. (Twps. of Darby, Circleville, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, Washington) & Union Cos.:					
Cable splicers; Equipment Ops.; Linemen	12.41	.35	3%		½%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		½%
After 6 mos.	6.30	.35	3%		½%
After 12 mos.	6.72	.35	3%		½%
After 18 mos.	7.11	.35	3%		½%
Fairfield & Licking Cos.:					
Cable Splicers	12.46	.50	3%		½%
Equipment ops.; Linemen	11.73	.50	3%		½%
Groundman; Truck drivers:					
Over 1 yr.	9.31	.50	3%		½%
0 - 1 yr.	8.32	.50	3%		½%
Fayette, Highland, Pickaway (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), & Ross Cos.:					
Equipment ops.; Linemen	10.95	.28	3%		½%
Truck Drivers	6.47	.28	3%		½%
Groundman	6.17	.28	3%		½%
Franklin Co.:					
Cable splicers; Linemen	9.88	.35	3%		½%
Equipment operators:					
0 to ½ yr.	6.30	.35	3%		½%
½ to 1 yr.	7.52	.35	3%		½%
1 yr. or more	8.81	.35	3%		½%
Groundmen or truck drivers:					
0 to 1 yr.	5.13	.35	3%		½%
1 yr. or more	6.06	.35	3%		½%
Geauga (Bainbridge, Chester, & Russell Twps.):					
Linemen; Cable splicers; Equipment ops.; & Welders	12.73	.35	3%		½%

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman after 12 mos.	6.72	.35	3%		½%
Groundman after 18 mos.	7.11	.35	3%		½%
Geauga (Auburn, Middlefield, Parkman, & Troy Twps.):					
Linemen; Cable splicers; Operator pole digging equipment	13.23	.45	3%		½%
Groundmen 1st 6 mos.	6.62	.45	3%		½%
Groundmen 2nd 6 mos.	7.94	.45	3%		½%
Groundmen 2nd yr.	9.26	.45	3%		½%
Groundmen 3rd yr.	9.92	.45	3%		½%
Groundmen over 3 yrs.	10.58	.45	3%		½%
Geauga (Rem. of Co.):					
Linemen; Cable splicers; Equipment op.	12.88	.70	3%+.70		½%
Truck Drivers	9.02	.70	3%+.70		½%
Groundmen more than 2 yrs.' experience	8.37	.70	3%+.70		½%
Groundmen less than 2 yrs.' experience	7.08	.70	3%+.70		½%
Muskingum & Perry Cos.:					
Cable splicer; Equipment ops.; & Linemen	11.43	.35	3%		½%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		½%
After 6 mos.	6.30	.35	3%		½%
After 12 mos.	6.72	.35	3%		½%
After 18 mos.	7.11	.35	3%		½%
Pickaway (Twps. of Deer Creek, Perry, Pickaway, Salt Creek, & Wayne), Pike (N. part), & Ross Cos.:					
Equipment ops.; & Linemen	10.95	.28	3%		½%
Truck drivers	6.47	.28	3%		½%
Groundmen	6.17	.28	3%		½%
Shelby Co.:					
Linemen	11.93	.50	3%		½%
Groundmen; Truck drivers	7.72	.50	3%		½%
Equipment operators	10.74	.50	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:					
Adams, Brown, Butler, Clermont, Fayette, Gallia, Hamilton, Highland, Lawrence, Meigs, Pike, Ross, Scioto, & Warren Cos.:					
Marble setters' finishers	10.385				
Marble sanders; Polishers; stockmen; Waxers; & Sawyers	10.55				
Terrazzo workers' finishers; & grinders	10.335				
Terrazzo base grinders (While operating Base grinding machine)	10.755				
Tile setters' finishers	10.285				
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	8.34				
Delaware, Fairfield, Franklin, Madison, Pickaway, & Union Cos.:					
Marble setters' finishers; Terrazzo workers' finishers; & Tile setters' finishers	8.65				
Terrazzo base grinders	9.00				
Terrazzo floor grinders	8.80				
Geauga Co.:					
Marble setters' finishers	12.26		1.00		
Terrazzo workers' finishers	12.97		.85		
Tile setters' finishers	12.79		1.00		
PAINTERS:					
Adams, Highland, Pike, & Scioto Cos.:					
Brush; Paperhangers; tapers; Wall covering, washing; Exterior buildings under 40'	11.00		.40		
Rollers; floor sanding; Power tools	11.25		.40		
Sandblasting; Steamcleaning; Hazardous material; & Burning	12.00		.40		
Brown, Clermont, & Hamilton Cos.:					
Commercial:					
Brush	11.55		.25		
Spray	11.95		.25		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Industrial:					
Brush	11.70		.25		
Spray	12.10		.25		
Butler & Warren cos.:					
Commercial:					
Brush	10.08				
Spray	10.58				
Industrial:					
Brush	10.23				
Spray	10.73				
Champaign & Clark Cos.:					
Brush; Paperhangers (Tools Furnished)	7.80	.10	.25		
Swing stage	8.15	.10	.25		
Spray	8.50	.10	.25		
Structural Steel	8.35	.10	.25		
Clinton, Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Brush; Roller	11.05	.40	.40		.02
Scaffold; Structural steel; & Swing stage	11.45	.40	.40		.02
Sandblasting; Spray; & Steam-cleaning	11.55	.40	.40		.02
Paperhangers	11.30	.40	.40		.02
Spackling & finishing; & Taping	11.05	.40	.40		.02
Steeple jackwork	11.80	.40	.40		.02
Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Brush; Paperhangers; Rollers; & Wall Washing	10.69	.65	.65		.02
Spray	11.19	.65	.65		.02
Structural steel; & Swing Stage	10.99	.65	.65		.02
Sandblasting; Steamcleaning; & Water tanks	11.39	.65	.65		.02
Drywall tapers & finishers	11.09	.65	.65		.02
Gallia, Lawrence, & Meigs Cos.:					
Brush; Roller	8.50			d	
Drywall taping; Paperhangers; & Wall Washers	9.05			d	
Spray	9.55			d	
Open Structural steel	9.25			d	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'd)					
Licking, Muskingum, & Perry Cos.					
Brush; Paperhangers	8.00				
Spray	8.45				
Ross County:					
Brush; Roller; & Taping	9.00				
Structural Steel	9.25				
Sandblast & Spray	9.75				
Shelby Co.:					
Brush; Roller; Drywall Taping	9.35	.73	.50		.03
Wallcovering; Swing stage; Safety belts; Spiders; Cherry pickers - brush or rollers	9.60	.73	.50		.03
Spray; Sandblasting; Steam-cleaning; Mitts; High pressure water cleaning & blow down	9.85	.73	.50		.03
Stilts & automatic drywall tools	10.10	.73	.50		.03
Petroleum storage tanks (over 30' high) brush, rollers	9.75	.73	.50		.03
Structural steel (open skeleton) - brush or rollers	9.65	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	10.85	.73	.50		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Lawrence (except Twps. of Payette, Union, & Rome), Pike & Scioto Cos.	11.02		.60		
Brown, Butler, Clermont, Hamilton, & Warren Cos.	12.295		.50		.02
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	11.25				
Clinton and Highland Cos.	9.25				
Delaware, Fairfield, Payette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross and Union Cos.	10.34	.50	.30		.02
Gallia & Meigs cos.	11.25	.50			
Geauga County	13.22	.60	.80		
Lawrence Co. (Twps. of Payette, Union & Rome Twps.)	10.70		.50		.05
PLUMBERS; Steamfitters:					
Adams, Gallia, Highland, Lawrence, Pike, & Scioto Cos.:					
Within 10 mi. radius of Portsmouth	11.67	.55	.75		
10 - 20 mi. radius of Portsmouth	11.92	.55	.75		
20 - 35 mi. radius of Portsmouth	12.02	.55	.75		
Over 35 mi. radius of Portsmouth	12.27	.55	.75		
Brown, Clermont, Hamilton, & Warren (N. of Rte #63 excl. Lebanon & S. Lebanon) Cos.:					
Plumbers; Gas Fitters	12.27	.75	1.05		.05
Pipefitters; Steamfitters	12.20	.90	1.225		.08
Butler Co. (N. ½)	12.35	.60	1.00		.05
Butler (S. ½) & Warren (S. of Rte. #63 incl. Lebanon & S. Lebanon) Cos.	12.27	.65	1.10		.02
Champaign, Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Madison (W. of Rte. #38 incl. city of London) Cos.	11.81	.58	.80		.04
Clinton, Darke, Fayette, Greene (excl. Twps. of Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Miami, Montgomery & Preble Cos.	12.21	.55	.70		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters: (Cont'd)					
Delaware, Fairfield, Franklin, Licking, Madison (E. of Rte. #38 not incl. city of London), Perry, Pickaway, Ross, & Union Cos.	12.47	.55	.80		.05
Geauga Co:					
Pipefitters	12.45	1.22	1.30		.10
Plumbers	12.88	.90	1.10		.02
Meigs Co.	11.43	.52	.55		.045
Muskingum Co.	10.83	.45	.50		.08
Shelby Co.	12.00	.50	.75		.05
ROOFERS:					
Adams, Gallia, Lawrence, Meigs, Muskingum, Pike & Scioto Cos.	11.00		.45		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.:					
Roofers	12.32		.85		.01
Pitch	12.92		.85		.01
Champaign, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Perry, Pickaway, Ross, & Union Cos.	11.795	.60	.65		.01
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Slate, Tile, & Asbestos Composition, Damp & Waterproof Workers	10.72	.80	.50		
	10.50	.80	.50		
Geauga Co.	14.03	.25	.50		
SHEET METAL WORKERS:					
Adams, Delaware, Fairfield, Fayette, Franklin, Gallia, Lawrence, Licking, Madison, Meigs, Muskingum, Perry, Pickaway, Pike, Ross, Scioto, & Union Cos.	10.82	.45+e	1.05		.10
Brown, Clermont, Hamilton, & Highland Cos.	12.035	.90	.81		.04
Butler, Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren Cos.	11.24	.55+f	.94		.15
Geauga Co.	12.85	.60	1.33		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS:					
Geauga Co.	12.45	1.22	1.30		.10
Remainder of Counties	12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, & Day after Thanksgiving
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. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve, providing employee who has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 6 paid holidays: A,C,E,F, Decoration Day & Veterans' Day
e. 3% of gross earnings to SASMI
f. $.39 to SASMI

LABORERS:					
Adams, Gallia, Highland, Lawrence, Meigs, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.77	.65	.55		.10
Sheeting & Shoring men	7.87	.65	.55		.10
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.92	.65	.55		.10
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; & Powered concrete buggies; Hand spikers	8.02	.65	.55		.10
Gunnite machine op.; Gunnite nozzlemen; Powdermen & blasters	8.34	.65	.55		.10
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	10.00	.60	.50		.05
GROUP 2	10.10	.60	.50		.05
GROUP 3	10.15	.60	.50		.05
GROUP 4	10.20	.60	.50		.05
GROUP 5	10.35	.60	.50		.05
GROUP 6	10.50	.60	.50		.05
GROUP 7	10.75	.60	.50		.05
GROUP 8	9.47	.60	.50		.05
GROUP 9	9.62	.60	.50		.05

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LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
GROUP 1: Common laborers; Cement Masons' helpers; Hand operated mechanical mule; Mechanical sweeper; Signal man					
GROUP 2: Bottom man; Pipelayer					
GROUP 3: Burning torch operator; Jackhammer; Mechanical & air tamper operator; Mechanical concrete buggies; Power operated mechanical mule; Concrete pump hose man; Vibrator man					
GROUP 4: Plasterers' tender; Mason tender; Stone mason tender; Bottom jackhammer man					
GROUP 5: Plaster mixer pump operator					
GROUP 6: Tunnel laborer					
GROUP 7: Gunnite nozzle operator					
GROUP 8: Demolition Construction - Wrecking laborers					
GROUP 9: Demolition Construction - Jackhammer man; Burner; & wall man					
Butler & Warren Cos.:					
Common laborers	9.44	.55	.40		.05
Asphalt rakers; Tampers; Smoothers hand air pump; Hand air tamper chisel; Vibrator power tamper op.	9.54	.55	.40		.05
Gunnite operators; Sandblasters; Concrete pumps & hose men	9.79	.55	.40		.05
Mason tenders; Mortar mixers; & scaffold builders	9.77	.55	.40		.05
Champaign & Clark Cos.:					
Laborers general; Carpenters' tenders; Waterboy; Flagman; & Signalman	7.60	.55	.40		.05
Plasterers' tenders; Mason Tenders; Mortar mixers; Air & machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand Spikers; Asphalt raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	7.85	.55	.40		.05
Miners & muckers for tunnel & caisson; Powdermen & blaster	8.10	.55	.40		.05
Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Unskilled	8.44	.55	.40		.05
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers, & railroad spikers					

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LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
by hand; Swinging scaffold over 15'	8.59	.55	.40		.05
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Man-hole builders, & bottom men	8.64	.55	.40		.05
Caisson work; Scaffold with power tOols	8.69	.55	.40		.05
Torch man on wrecking	8.74	.55	.40		.05
Caisson work with jackhammer	8.89	.55	.40		.05
Gunnite op.; Wagon drill op.; & blaster-powderman	8.94	.55	.40		.05
Tenders to bricklayers & masons	9.07	.55	.40		.05
Tenders to lathers & plasterers	9.11	.55	.40		.05
Delaware Co.:					
Building & Construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tender; Finisher tender; Concrete handler; Utility construction laborers; Guardrail erectors	8.81	.70	.70		.10
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote worker; Mortar mixer tenders; Plasterers' tenders; Hod carrier; Laser beam set up men	9.01	.70	.70		.10
Gunnite op.	9.41	.70	.70		.10
Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Common laborers; Carpenter ten-ders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
windows; A man on bucket pouring concrete; Conveyor belt	8.34	.55	.40		.05
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jackhammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy op.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun, Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	8.54	.55	.40		.05
Geauga Co.:					
Laborers; Equipment replacing wheelbarrow & concrete buggy	10.52	1.37	1.40		
Power driven tools & vibrators; Sewer & Utilities laborers; Fine brick tenders	10.67	1.37	1.40		
Jackhammer; Acetylene burner mucker	10.72	1.37	1.40		
Swinging scaffold; Mason tender handling carbon block & bottom block material; Air track & Wagon drill	10.77	1.37	1.40		
Gunnite op.; Blasters & Shooters; Caisson; Well; Cylinder; Cofferdams; Mine workers w/o air	10.84	1.37	1.40		
Topman on free standing radial stack	11.02	1.37	1.40		
Acid brick tenders	10.92	1.37	1.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Licking Co.:					
Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man	8.49	.55	.40		.05
Common laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & Conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	8.27	.55	.40		.05
Muskingum & Perry Cos.:					
Planters (landscape); Tree Trimmers; Plumbers' helpers; Carpenters' tender; Building & construction laborers	8.42	.55	.40		.05
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixer men; Brick slingers; Car pushers & tunnel laborers; Caulkers; Yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters;					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers; Proportioning plant ops.; Pump men (under 4"); Road form setters; Sewer bottom men; stone mason tenders; Sheeting & Shoring men; Vibrator op.; Plasterers' tenders; Cutting with burning torches; Dumpmen (batch trucks)	8.52	.55	.40		.05
Brick droppers; Lock tenders; Powdermen or blasters	8.67	.55	.40		.05
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	8.26	.55	.40		.05
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	8.06	.55	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Shelby Co.:					
Building laborers; Laser beam; Power wheelbarrow or Power buggy	7.85	.55	.40		.05
Vibrators; spikers by hand (Railroad); Cement finishers' helpers	8.00	.55	.40		.05
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tampers; Torchman; Tunnel	8.00	.55	.40		.05
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.15	.55	.40		.05
Blaster-Powderman; Gunnite ops.; Muckers & miners (Tunnel & caisson) free air; Sandblasters; & Wagon drill/operator	8.35	.55	.40		.05

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POWER EQUIPMENT OPERATORS	Geauga Co.	Remaining Cos.	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	13.17	12.36	.66	1.00		.11
GROUP B	13.02	12.20	.66	1.00		.11
GROUP C	12.67	11.84	.66	1.00		.11
GROUP D	11.89	11.06	.66	1.00		.11
GROUP E	11.57	10.73	.66	1.00		.11
GROUP F	9.64	8.83	.66	1.00		.11

GROUP A: A-frame; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback Op.); Boom trucks; Cableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. hoisting building materials; Helicopter winch operator hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/boom; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Trench machines(over 24" wide)

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats

GROUP C: Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs., pressure);Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D: Compressors on building construction; Conveyors (building material); Gunnite machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welding op.

GROUP E: Backfillers & tampers; Batch plant; Bar & joint installing machine; Bullfloats; Burlap & curing machines; Cleftplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½' discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)

GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven heaters (oil fired); Power boiler (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Brown, Highland, Lawrence (W. of Coal Grove & W. of St. Rte #75), Pike, Ross, & Scioto Cos.:					
Jeep; Station Wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	8.22	19.00a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason Tending work); Euclids	9.14	19.00a			
Butler Co. (N. ½):					
Tandem axle trucks; Tandem axle dump trucks; Winch trucks; Fork lifts; Truck warehouse men	8.79	25.00b	28.00a		
Single axle trucks; Jeeps; Pickups	8.64	25.00b	28.00a		
Euclid trucks; Mechanics	9.09	25.00b	28.00a		
Lowboys & drags	9.05	25.00b	28.00a		
Semi combination & combination of hauling units	8.89	25.00b	28.00a		
Clinton, Darke, Greene, Miami, Champaign, Montgomery, & Preble Cos.:					
Straight flat & dump truck; Winch truck	6.23	21.50a	8.00a	c&e	
Ready mix dump crete	6.29	21.50a	8.00a	c&e	
Tandem truck & tractor trailer combination	6.34	21.50a	8.00a	c&e	
Euclid to 12 yds.	6.40	21.50a	8.00a	c&e	
Euclid over 12 yds.	6.76	21.50a	8.00a	c&e	
Delaware, Fayette, Franklin Madison, & Pickaway cos.:					
Dump & straight	8.71	17.00a			
Tandem & semi-farm tractor	8.81	17.00a			
Lowboy	8.91	17.00a			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D)					
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.:					
Truck helpers; pickups; Station wagons; Panel trucks; Yardmen; Warehousemen; Flatbody material truck (straight job); Greasers; Washers; Tiremen; Gas pump attendants; Dump trucks (up to 5 cubic yards)	9.15	82.33d	52.00d	1.00	
Tank trucks (straight)	9.25	82.33d	52.00d	1.00	
Dump trucks (5 cu. yds. & over); Semi-dump trucks; Semi-trailers (whether flat, rack or pole & hauled or pushed by truck or tractors); Agitator or mixer trucks (up to 5 cu. yds.); Tank truck (semi)	9.40	82.33d	52.00d	1.00	
Low boy trailers; Winch trucks; Fork trucks; Distributor trucks (front end & back end); Truck crane; Monorail truck	9.45	82.33d	52.00d	1.00	
Material checker & receiver	9.50	82.33d	52.00d	1.00	
Agitator or mixer truck (5 cu. yds. & over)	9.55	82.33d	52.00d	1.00	
Mechanic's helper	9.50	82.33d	52.00d	1.00	
Mechanic	9.80	82.33d	52.00d	1.00	
Tri-axle dump trucks; Hydraulic lift tailgate truck & farm type tractors; End dumpsters; Turna-rockers; Ross carriers; Athey wagon or similar equipment; A-frame; Hydrolift; Dual purpose trucks	9.80	82.33d	52.00d	1.00	

FOOTNOTES:

a. per week per employee
b. per week per employee providing employee has been on payroll at least 30 days
c. 1 yr's employment - 1 wk's paid vacation; 7 yrs' employment - 2 wks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period.
d. per month per employee
e. an employee who has been on the payroll 30 days or more & has worked his last scheduled workday within 7 calendar days before his next scheduled workday within 7 calendar days after New Yr's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hrs. pay for said holidays

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH78-2057 DATE: Date of Publication
Supersedes Decision No. OH78-2004, dated February 10, 1978 in 43 FR 5993
DESCRIPTION OF WORK: Building & Residential Construction

*ASHTABULA, CUYAHOGA, LAKE, LORAIN, PORTAGE, STARK, & SUMMIT

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake, & Lorain Cos.	$14.78				
Ashtabula (Rem. of Co.)	10.74	.45	.70		.02
Remaining Cos.	12.135	.55	.80		.02
BOILERMAKERS	12.23	.60	1.10		.03
BRICKLAYERS; Stonemasons:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	12.90	1.00	1.00		.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.:					
Commercial Construction	12.46	.73	.55		.02
Residential Construction	10.46	.73	.55		.02
Stark Co.	10.79	.85	.60		.01
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers;					
Ashtabula, Cuyahoga, & Lake Cos.					
Carpenters; Soft Floor Layers	12.87	.85	1.25		.03
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Portage & Summit Cos.:					
Carpenters	12.20	.50	.90		.02
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Soft Floor Layers	10.40	.40	.70		-
Stark Co.:					
Carpenters	10.28	.50	.50		.02
Millwrights; Piledrivermen	10.76	.50	.50		.02
Soft Floor Layers	10.11	.50	.50		.02
Lorain Co.:					
Carpenters; Soft Floor Layers	10.66	.70	1.00	a	.04
Millwrights; Piledrivermen	10.66	.70	1.00	a	.04
CEMENT MASONS:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	14.58				
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage, Stark, & Summit Cos.:					
Commercial Construction	11.54	.60	.75		.02
Residential Construction (excluding Stark Co.)	10.57	.60	.75		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cuyahoga & Lorain (Twp. of Columbia) Cos.	$13.75	.55	3% + .48		.02
Lake Co.:					
Commercial Construction	13.13	.70	3% + .70		.3%
Residential Construction	6.25	.70	3%		1%
Lorain (Except Columbia Twp.):					
Commercial Construction	12.50	.60	3% + .80		.1%
Residential Construction	7.08	.60	3%		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.:					
Commercial Construction	12.33	.47	3% + .50		.2%
Residential Construction	7.54	.68	3% + .50		.2%
Portage (Rem. of Co.) & Stark Co.:					
Commercial Construction	11.90	.40	3% + .40		.3%
Residential Construction	8.05	.40	3% + .30		.3%
Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor)	12.59	.60	7%		.7%
Ashtabula Co. (Rem. of Co.)	13.05	.90	3% + .85		.2%
ELEVATOR CONSTRUCTORS:					
Ashtabula Co.:					
Elevator Constructors	11.04	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Cuyahoga, Lake, & Lorain Cos.:					
Elevator Constructors	12.79	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Portage, Stark, & Summit Cos.:					
Elevator Constructors	12.02	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	12.83	.55	.65		.01
Portage, Stark & Summit Cos.:					
Commercial	10.94	.71	1.01		
Residential	6.79	.64	.52		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Ashtabula (NE ¼ of Co.)	11.08	1.86	1.01		.10
Ashtabula (except NE ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (excluding Ravenna Ordnance Depot), & Summit Cos.	11.72	1.05	1.20		.03
Portage (Ravenna Ordnance Depot) Co.:					
Ornamental; Reinforcing; & Structural	12.03	.40	1.30		.07
Bucker-up	12.155	.40	1.30		.07
Sheeter	12.53	.40	1.30		.07
Stark Co.:					
Ornamental; Reinforcing; & Structural	11.08	.70	.75		.03
Bucker-up	11.205	.70	.75		.03
Sheeter-side	11.33	.70	.75		.03
Sheeter-roof	11.58	.70	.75		.03
LATHERS:					
Ashtabula, Cuyahoga, Lake, Lorain (Eastern portion), & Summit (No. part of Co.) Cos.	13.88		1.00		.01
Lorain (Rem. of Co.)	12.45				.01
Portage & Summit (So. part of Co.) Cos.	11.01	.57	.15		.01
LEADBURNERS	10.75	.40		d	.01
LINE CONSTRUCTION:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor):					
Cable splicer op.; Linemen; Pole digging equipment op.	13.23	.45	3%		½%
Groundmen:					
Over 3 yrs.	10.58	.45	3%		½%
3rd yr.	9.92	.45	3%		½%
2nd yr.	9.26	.45	3%		½%
2nd 6 mos.	7.94	.45	3%		½%
1st 6 mos.	6.62	.45	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Ashtabula Co. (Rem. of Co.):					
Cable splicer; Equipment op.; Line Truck Driver; Linemen	$13.05	.90	3% + .85		½%
Groundmen:					
Over 12 mos.	9.80	.90	3% + .85		½%
6 - 12 mos.	8.50	.90	3% + .85		½%
0 - 6 mos.	7.20	.90	3% + .85		½%
Cuyahoga & Lorain (Columbia Twp.) Cos.:					
Cable Splicers; Equipment ops.; Linemen; & Welders	12.73	.35	3%		½%
Lake Co.:					
Equipment Operators; Linemen	12.88	.70	3% + .70		½%
Lorain (Rem. of Co.) Co.:					
Cable Splicers; Equipment ops.; & Linemen	12.50	.60	3% + .80		½%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Linemen	12.08	.57	3% + .65		½%
Cable Splicers	12.88	.57	3% + .65		½%
Groundmen; Truck Drivers	6.04	.57	3% + .65		½%
Equipment Operators	9.06	.57	3% + .65		½%
Portage (Rem. of Co.) Co.:					
Cable Splicer; Linemen; Pole Digging Equipment	13.23	.45	3%		½%
Stark Co.:					
Cable Splicers; Linemen	11.90	.40	3% + .40		½%
Truck Drivers	7.95	.40	3% + .40		½%
Groundmen:					
Over 1 yr's experience	7.50	.40	3% + .40		½%
Under 1 yr's experience	7.05	.40	3% + .40		½%
Line Equipment ops.	10.60	.40	3% + .40		½%
MARBLE SETTERS:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	12.90	1.00	1.00		.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.40	.68	.50		
Stark Co.	9.10	.70	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS:					
Cuyahoga, Lake & Lorain Cos.	$12.26		1.00		
Portage & Summit Cos.	10.90	.68	.50		
PAINTERS:					
Ashtabula, Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike), Lorain (NE part):					
Brush; Rollers; Paperhangers	12.51	.63	.74		.05
Swing Stage; Window Jack	12.26	.63	.74		.05
Tapers	13.21	.63	.74		.05
Lorain (Except NE part):					
Commercial Construction:					
Brush	8.70				
Spray	9.30				
Roller; Taping	8.95				
Residential Construction:					
Brush	8.35				
Spray	8.85				
Taping	8.75				
Portage (Rem. of Co.), & Summit (Rem. of Co.) Cos.:					
Brush; Rollers; Paperhangers	9.40	.62	.60		
Drywall finisher & taper; Spray	9.90	.62	.60		
Structural steel	9.65	.62	.60		
Stark Co.: (Commercial)					
Brush; Roller	9.61	.78	.60		.02
Paperhangers	9.71	.78	.60		.02
Drywall	10.01	.78	.60		.02
Spray	10.11	.78	.60		.02
Drywall with machines	10.36	.78	.60		.02
Stark Co.: (Residential)					
Brush; Rollers	9.17	.78	.60		.02
Paperhangers	9.27	.78	.60		.02
Spray	9.67	.78	.60		.02
Drywall	9.57	.78	.60		.02
Drywall with machines	9.92	.78	.60		.02
PIPEFITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	12.45	1.22	1.30		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Ashtabula Co.	$11.76	.60	.50		
Cuyahoga Co.	14.88				.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.41	.60	.75		.01
Stark Co.	10.79	.85	.60		.01
PLUMBERS:					
Ashtabula, Cuyahoga, Lake, & Summit (No. of Rte. #303) Cos.	12.88	.90	1.10		.02
Lorain Co.	12.25	.60	.88		.05
Portage & Summit (So. of Rte. #303) Cos.	12.31	.79	.90		.05
Stark Co.	12.12	.50	.70	e	.05
ROOFERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	14.03	.25	.50		
Portage, Stark, & Summit Cos.	11.18	.73	.55		.02
SHEET METAL WORKERS:					
Ashtabula, Cuyahoga, & Lake Cos.	12.85	.60	1.33		.04
Lorain Co.	12.68	.60	.60		.04
Portage, Stark, & Summit Cos.	10.91	.61	.84		.05
SPRINKLER FITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	12.45	1.22	1.30		.10
Lake, Portage, Stark, & Summit Cos.	12.75	.75	1.05		.08
STEAMFITTERS:					
Lorain Co.	12.25	.60	.88		.05
TERRAZZO WORKERS:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	12.90	1.00	1.00		.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.40	.68	.50		
Stark Co.:					
Terrazzo Workers	9.05	.70	.45		
Terrazzo Grinders	8.52	.70	.45		
TERRAZZO WORKERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.97		.85		
Portage & Summit Cos.	10.90	.68	.50		
Stark Co.	8.09	.70	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Ashtabula Co.	$11.76	.60	.50		
Cuyahoga Co.	14.405		1.36		
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.40	.68	.50		
Stark Co.	8.94	.70	.45		
TILE SETTERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.79		1.00		
Portage & Summit Cos.	10.90	.68	.50		
Stark Co.	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 7 paid holidays; A through F, & Day after Thanksgiving
c. 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.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
e. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

LABORERS (Ashtabula County): Sheeting & Shoring Men; Asphalt Rakers & Tampers; Dumpmen (Batch Truck); Signalmen; Concrete Workers; Building Wreckers; Tool Checkers; Carpenters' Tenders; Construction Laborers; All work not mentioned in classifications below to be paid at the rate of construction laborers	$10.45					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Spreader Box Men (asphalt); Stone Masons' Assistant; Plasterers or Mortar Mixers; Squeegee man	10.60				
Air & Machine Driven Tool op.; Industrial Sewer Cleaning; Sewer Pipe Layers; Bottom Men (6' & over); Power Driven Wheelbarrows & Sweepers; Brick Batter & Droppers; Burning & Cutting Torches; Mud Jacking of floors	10.65				
Stackmen; Swinging Scaffold men	10.75				
Tunnel Laborers	10.85				
Gunnite ops.	10.95				
Power Blasters	11.00				
LABORERS (Cuyahoga County):					
Construction	10.52	1.37	1.40		
Sewer & Utility; Power Driven Tools & Vibrators	10.67	1.37	1.40		
Jackhammer; Acetylene Burners; Muckers	10.72	1.37	1.40		
Swinging Scaffolds	10.77	1.37	1.40		
Gunnite ops.; Blasters; Shooters; Caisson; Well Cylinders; Mine Workers w/o air; & Cofferdams	10.84	1.37	1.40		
Topman on free standing radial stack	11.02	1.37	1.40		
LABORERS (Lake County):					
Building & Construction	10.65	.55	.40		
Gunite op.; Blasters & Shooters; Caissons; Wells; Cylinder cofferdams; Mine Workers w/o air; Swing Scaffolds; Acetylene Burners; Vibrators; Top man on free standing radial stacks; Slip forms higher than 30'; Fire Brick Tenders	10.90	.55	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Lorain County):					
Building & Construction; Signalmen; Flagmen; Tool Crib; Carpenter Tender; Finisher Tender; Concrete Handler; Guard Rail Erector	$10.08	.70	.70		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipelayers; Air & Power Driven Tools; Burner on demolition work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blasters; Creosote Workers; Mortar Mixers; Form Setter; Mason Tender; Plasterers' Tenders; Hod Carrier; Laser Beam set up man	10.28	.70	.70		.10
Gunnite Operator	10.68	.70	.70		.10
LABORERS (Portage & Summit Cos.):					
Residential Construction	9.07	.65	.40		.16
Common Laborers; Welders' Helpers; Carpenters' Tenders; Landscape Laborers; Mason Tender; Concrete Bucket Tender	11.12	.65	.40		.16
Air Driven Boring Machine; Tamper ops.; Asphalt Raker; Paving Bed Maker; Material Mixer; Wire Mesh Handler; Hook-up man on demolition work; Scaffold Erector; Structural Precast Erector; Power Tools-Air, Gas, or electric	10.82	.65	.40		.16
Pipe Layers; Rock Drillers; Muckers--Tunnel; Burners; Form Setters; Power Saws; Jackhammer; Barco Type Tampers; Bottom man; Hod Carrier; Power Buggy or Power Wheelbarrow	10.77	.65	.40		.16

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Gunite Nozzlemen; Tunnel Miners; Water Line Caulkers; Dynamite Men; Pump Hose Nozzlemen	$10.62	.65	.40		.16
LABORERS (Stark County):					
Building & Construction; Signalmen; Flagmen; Tool Cribman; Carpenters' Tenders; Finisher Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	8.81	.70	.70		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on demolition; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Workers; Mortar Mixers; Form Setter; Mason Tender; Plasterers' Tenders; Hod Carrier; Laser Beam Set-Up Men	9.01	.70	.70		.10
Gunnite Operator	9.41	.70	.70		.10
POWER EQUIPMENT OPERATORS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.:					
GROUP A	13.17	.66	1.00		.11
GROUP B	13.02	.66	1.00		.11
GROUP C	12.67	.66	1.00		.11
GROUP D	11.89	.66	1.00		.11
GROUP E	11.57	.66	1.00		.11
GROUP F	9.64	.66	1.00		.11
Portage, Stark, & Summit Cos.:					
GROUP A	12.89	.66	1.00		.11
GROUP B	12.73	.66	1.00		.11
GROUP C	12.38	.66	1.00		.11
GROUP D	11.57	.66	1.00		.11
GROUP E	11.24	.66	1.00		.11
GROUP F	9.28	.66	1.00		.11

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GROUP A - A-Frames; All rotary drills used on caisson work for foundations & sub-structure work; Boiler op. or compressor op. when compressor or boiler is mounted on crane (piggyback operation); Boom trucks (all types); Cableways; cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes (all types); Derricks (all types); Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. (hoisting builders materials); Helicopter winch op.;(hoisting builders materials); Hoes (all types); Hoisting engines (two or more drums); Lift slab or panel jack ops.; Locomotives (all types); Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps with boom; Panelboard (all types on site); Pile driver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction site); Tower derricks; Trench machines (over 24" wide)

GROUP B - Asphalt paver; Bulldozer; CMI type equipment; Endloaders; Kohlman type loaders (dirt loading); Mucking machines; Power graders; Power scoops; Power scrapers; Push cats

GROUP C - Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (one drum); House elevators; Man lift; Power boiler (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D - Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap., more than one bag); Mixers (one bag cap., side loader); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road wideningtrencher; Rollers; Welder operator

GROUP E - Backfillers and tampers; Batch plant; Bar & joint installing machine; Bull floats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractors (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½" discharge); Hydro seeders; Self-propelled power spreader; Self-propelled subgrader; Tractors (pulling sheep foot roller or grader); Tire repairman; Vibratory compactors (with integral power)

GROUP F - Oiler; Helpers; Signalman; Light plant op.; Power driven heaters (oil fired); Power boilers (less than 15 lbs. pressure); Submersible pumps (under 4" discharge); Pumps (under 4" discharge)

STATE: OHIO
DECISION NO.: OH78-2058
COUNTIES: *SEE BELOW
DATE: Date of Publication
Supersedes Decision No. OH78-2005, dated February 10, 1978 in 43 FR 5999
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashland, Coshocton, Holmes, Medina, Tuscarawas & Wayne Cos	$12.135	.55	.80		.02
Carroll & Columbiana Cos.	10.74	.45	.70		.02
BOILERMAKERS:					
Ashland Co.	13.10	.70	1.00		.03
Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	12.23	.60	1.10		.03
Columbiana Co.	9.815	7.5%	7%		.01
BRICKLAYERS; Marble Setters; Stonemasons; Terrazzo Workers; & Tile Setters:					
Ashland, Holmes & Wayne (except Milton & Chippewa Twps.) Cos.	10.63	.60	1.00		.02
Carroll, Columbiana (Twps. of Knox, Butler, West & Hanover), & Tuscarawas Cos.:					
Bricklayers; Stonemasons	10.79	.85	.60		.01
Marble Setters	9.10	.70	.45		
Terrazzo Workers	9.05	.70	.45		
Tile Setters	8.94	.70	.45		
Columbiana (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem, & Unity) Co.:					
Bricklayers; Stonemasons Marble Setters; Terrazzo Workers; & Tile Setters	11.54 12.305	.60	.60		.02
Columbiana (Rem. of Co.) Co.	10.30	.60	.50		
Coshocton Co.	10.33	.60	.50		.02
Medina (Twps. of Hinckley, Grander, Brunswick, Medina, Liverpool, Montville, & York) Co.:					
Bricklayers; Marble setters; Stonemasons; & Terrazzo Workers	12.90	1.00	1.00		.01
Tile Setters	14.405		1.36		
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) & Wayne (Chippewa & Milton Twps.) Cos.:					
Bricklayers; Stonemasons Marble Setters; Terrazzo Workers; & Tile Setters	$12.46 11.40	.73 .68	.55 .50		.02
Medina (Twps. of Litchfield, Chatham, Harrisville, Homer, & Spencer) Co.	12.20		.40		.01
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Ashland Co.:					
Carpenters; Soft Floor Layers	10.66	.70	1.00	a	.04
Millwrights	10.66	.70	1.00	a	.04
Piledrivermen	10.66	.70	1.00	a	.04
Carroll, Tuscarawas, & Wayne Cos.:					
Carpenters	10.28	.50	.50		.02
Millwrights; Piledrivermen	10.76	.50	.50		.02
Soft Floor Layers	10.11	.50	.50		.02
Columbiana Co.:					
Carpenters	10.05	.87	.85		.02
Millwrights	10.93	.50	6%	4%	.02
Piledrivermen	11.15	.55	10%		.5%
Coshocton & Holmes Cos.:					
Carpenters; Soft Floor Layers	10.14	.53	.70		.02
Millwrights	10.79	.53	.70		.02
Piledrivermen	10.79	.53	.70		.02
Medina Co.:					
Carpenters	12.20	.50	.90		.02
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Soft Floor Layers	10.40	.40	.70		
CEMENT MASONS; Plasterers:					
Ashland Co.:					
Cement Masons	10.55				
Plasterers	10.45				
Carroll & Tuscarawas Cos.	10.79	.85	.60		.01

DECISION NO. OH78-2058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
Cement Masons	$10.57	.50	.50		.05
Plasterers:					
Twps. of Knox, Butler, West, & Hanover	10.79	.85	.60		.01
Remainder of Co.	11.61	.60			.03
Coshocton Co.:					
Cement Masons	10.33	.60	.50		.02
Holmes & Wayne (except Chippewa & Milton Twps.) Cos.	11.18	.05	1.00		.02
Medina Co. (exclusive Twps. of Homer, Harrisville, Chatham, Litchfield, & Spencer)					
Cement Masons	11.54	.60	.75		.02
Plasterers	11.41	.60	.75		.01
Medina Co. (Rem. of Co.):					
Cement Masons; Plasterer	12.20		.40		.01
ELECTRICIANS:					
Ashland Co.	11.50	.45	3% + .50		.1%
Carroll (N ½ incl. Fox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.	11.90	.40	3% + .40		.3%
Carroll (Rem. of Co.) Co.	12.95	6%	9%	8%	½%
Columbiana (Twps. of Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West, & Yellow Creek) Co.	11.03	.88	7%		.07
Columbiana (Twps. of Butler, Fairfield, Perry, Salem, & Unity) Co.	13.03	.59	7%		.3%
Coshocton & Tuscarawas (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry, & Bucks Twps.) Cos.	10.80	.40	3% + .62		.03
Medina (Twps. of Litchfield, & Liverpool) Co.	12.50	.60	3% + .80		.1%
Medina (Rem. of Co.), & Wayne (N½ of Co.)	12.33	.47	3% + .50		.2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Ashland, Coshocton, Holmes, & Tuscarawas Cos.:					
Elevator Constructors	$11.705	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Carroll Co.:					
Elevator Constructors	11.08	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Columbiana Co.:					
Elevator Constructors	11.75	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Medina & Wayne Cos.:					
Elevator Constructors	12.02	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Carroll, Coshocton, Holmes, Medina (S ½), Tuscarawas, & Wayne Cos.	10.94	.71	1.01		
Medina (N ½) Co.	12.83	.55	.65		.01
IRONWORKERS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Ornamental; Reinforcing; & Structural	11.08	.70	.75		.03
Sheeter-roof	11.58	.70	.75		.03
Sheeter-side	11.33	.70	.75		.03
Bucker-up	11.205	.70	.75		.03
Columbiana Co.:					
Ornamental; Reinforcing; & Structural	12.03	.40	1.30		.07
Sheeters	12.53	.40	1.30		.07
Bucker-up	12.155	.40	1.30		.07
Medina Co.	11.72	L05	1.20		.03
LATHERS:					
Wayne Co.	11.01	.57	.15		.01
LEADBURNERS	10.75	.40		d	.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Ashland, & Medina (exclu. Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) Cos.:					
Marble Setters' Finishers	12.26		1.00		
Terrazzo Workers' Finishers	12.97		.85		
Tile Setters' Finishers	12.79		1.00		
Carroll & Tuscarawas Cos.:					
Terrazzo Workers' Finishers					
Tile Setters' Finishers	8.09	.70	.45		
Columbiana Co.	11.455				
Medina (Rem. of Co.) & Wayne (Twps. of Milton & Chippewa)	10.90	.68	.50		
PAINTERS:					
Ashland Co.:					
Brush; Roller; Washer; Cleaner	8.80		.50		
Drywall; Paperhanger; Wall Coverer; Pot Tender	9.55		.50		
Structural Steel Tanks & Towers; Hazardous Materials incl. epoxy or any 2 component materials	9.30		.50		
Spray; Riggers & helpers on scaffolding over 30' above base level	9.55		.50		
Sign & Pictorial	9.65		.50		
Sandblaster Cleaner	9.95		.50		
Carroll, Holmes, Tuscarawas, & Wayne Cos.:					
Brush; Roller	9.61	.78	.60		.02
Paperhanger	9.71	.78	.60		.02
Spray	10.11	.78	.60		.02
Drywall	10.01	.78	.60		.02
Drywall with machines	10.36	.78	.60		.02
Columbiana Co.:					
Brush; Rollers; Waterproofing; Paperhanging; Wallwashing; Hydro-jet cleaning; Steam cleaning	11.10	.60	.80		
Spray; Epoxy-mastic (brush or roller)	11.60	.60	.80		
Swing; Interior scaffold (over 30 ft.); Window jacks & safety belts	11.27	.60	.80		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drywall taping	$11.25	.60	.80		
Open structural steel	11.31	.60	.80		
Dipping (when permitted)	11.45	.60	.80		
Epoxy-mastic (spray)	12.10	.60	.80		
Paperhangers (furnishing own tools)	12.35	.60	.80		
Coshocton Co.:					
Brush; Paperhangers; Wall washers; Wallpaper cleaners; & Drywall tapers	5.50				
Spray	6.00				
Swing stage; Scaffold & removal of wallpaper	5.75				
Medina Co.:					
Brush; Rollers; & Paperhangers	9.40	.62	.60		
Spray; Drywall finisher & taper	9.90	.62	.60		
Structural steel	9.65	.62	.60		
PIPEFITTERS; Sprinkler fitters:					
Medina (No. of State Rte. #18)	12.45	1.22	1.30		.10
PLUMBERS; Steamfitters:					
Ashland Co.	12.25	.60	.88		.05
Carroll (Twps. of Ross, Monroe, Union, Lee, Orange, Perry, & Loudon), Coshocton, Holmes, & Tuscarawas Cos.	10.83	.45	.50		.08
Carroll (Rem. of Co.), & Wayne Cos.	12.12	.50	.70	e	.05
Columbiana (Washington & Yellow Creek Twps., & Liverpool Twps. Secs. 35 & 36 - West of County Rd. #427)	12.61	.50	8%	8%	.12
Columbiana (Rem. of Co.)	12.31	.75	.50		.03
Medina (N. Of St. Rte. 18 & Smith Rd. incl. city of Medina) Co.:					
Plumbers	12.88	.90	1.10		.02
Medina (Rem. of Co.) Co.:					
Plumbers	12.31	.79	.90		.05
ROOFERS	11.18	.73	.55		.02
SHEET METAL WORKERS:					
Ashland, Carroll, Csohocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	10.91	.61	.84		.05
Columbiana Co.	12.26	.75	.79		.04
SPRINKLER FITTERS (Excluding Medina Co. (No. of State Rte 18)	12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

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FOOTNOTES:

a. 2 paid holidays: B & D
b. 7 paid holidays: A through F, & Day after Thanksgiving
c. 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.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
e. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Ashland Co.:					
General laborer; Carpenter tender; Concrete handler	8.81	.70	.70		.10
Mason & Plasterers' tenders; Air & power driven tools; Pipelayers; Dynamite blaster; Mortar mixer; & formsetter	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10
Carroll Co.:					
Building & construction; Signalmen; Flagmen; Tool crib-man; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	8.81	.70	.70		.10
Bottom men; Scaffold builder; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition; Swing-ing scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
General laborers; Carpenters' tenders	8.10	.65	.55		.10
Brick & cement mason tenders; Plasterers' tenders; Mortarmen	8.265	.65	.55		.10
Pipelayers; Air tool & power tool operators; Jackhammer ops.	8.30	.65	.55		.10
Coshocton, Holmes, & Tuscarawas Cos.:					
Laborers; Carpenters' tenders; Concrete handlers; Finisher tenders; Guard rail erector	8.66	.70	.70		.10
Bottom men scaffold builders; Air & power driven tools; Burners; Pipelayers; Mason & plasterers' tenders; Hod carriers; Laser beam set up men; Blasters & Dynamite man	8.86	.70	.70		.10
Gunnite operators	9.26	.70	.70		.10
Medina Co.:					
Common laborers; Welders helpers; Carpenters' tenders; Landscape laborers; Mason tender; Concrete bucket tender	11.12	.65	.40		.16
Air driven boring machine; Tamper ops.; Asphalt raker; Paving bed maker; Material mixer; Wire mesh handler; Hook-up man on demolition work; Scaffold erector; Structural precast erector; Power tools-air, gas, or elec-tric	10.82	.65	.40		.16
Pipe layers; Rock drillers; Muckers--Tunnel; Burners; Form setters; Power saws; Jackhammer; Barco type tampers; Bottom man; Hod carrier; Power buggy or Power wheelbarrow	10.77	.65	.40		.16
Gunite nozzlemen, Tunnel miners, Water line caulkers; Dynamite men; Pump hose nozzlemen	10.62	.65	.40		.16

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne Co.:					
Building & Construction; Signalmen; Flagmen; Tool cribman; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborers; Guard rail erector	8.81	.70	.70		.10
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & power driven tools; Burner on demolition; Swinging scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setters; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10
POWER EQUIPMENT OPERATORS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Group A	12.89	.66	1.00		.11
Group B	12.73	.66	1.00		.11
Group C	12.38	.66	1.00		.11
Group D	11.57	.66	1.00		.11
Group E	11.24	.66	1.00		.11
Group F	9.28	.66	1.00		.11
Medina Co.:					
Group A	13.17	.66	1.00		.11
Group B	13.02	.66	1.00		.11
Group C	12.67	.66	1.00		.11
Group D	11.89	.66	1.00		.11
Group E	11.57	.66	1.00		.11
Group F	9.64	.66	1.00		.11

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GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressurizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity; side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

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POWER EQUIPMENT OPERATORS
Columbiana Co.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Saugen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster

CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)

CLASS V - Oiler

CLASS VI - Rigs-pile driving or caisson type

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Ashland Co.:					
Equipment operators; Linemen	$11.50	.45	3% + .50		½%
Line truck drivers	7.48	.45	3% + .50		½%
Groundman	6.90	.45	3% + .50		½%
Carroll (S. of Fox, Harrison, Rose, & Washington Twps.) Co.:					
Linemen; Line equipment ops.; & truck drivers	12.95	6%	9%	8%	½%
Groundman	8.42	6%	9%	8%	½%
Cable splicer	13.35	6%	9%	8%	½%
Carroll (Rem. of Co.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.:					
Cable splicers; Linemen	11.90	.40	3% + .40		½%
Line equipment operators	10.60	.40	3% + .40		½%
Groundmen:					
Under 1 yr's experience	7.05	.40	3% + .40		½%
Over 1 yr's experience	7.50	.40	3% + .40		½%
Truck drivers	7.95	.40	3% + .40		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co. (Rem. of Co.):					
Linemen; Heavy equipment Operator	$11.03	8%	7%		½%
Groundmen; Truck drivers	9.97	8%	7%		½%
Cable splicers	11.43	8%	7%		½%
Columbiana (Butler, Fairfield, Perry, Salem, & Unity Twps.) Co.:					
Linemen; Cable splicers; Operator - pole digging equipment	13.23	.45	3%		½%
Groundman 1st 6 mos.	6.62	.45	3%		½%
Groundman 2nd 6 mos.	7.94	.45	3%		½%
Groundman 2nd yr.	9.26	.45	3%		½%
Groundman 3rd yr.	9.92	.45	3%		½%
Groundman over 3 yrs.	10.58	.45	3%		½%
Coshocton & Tuscarawas (Rem. of Co.) Cos.:					
Cable splicers; Linemen; Equipment ops.	11.43	.35	3%		½%
Groundmen:					
0 - 6 mos.	5.92	.35	3%		½%
After 6 mos.	6.30	.35	3%		½%
After 12 mos.	6.72	.35	3%		½%
After 18 mos.	7.11	.35	3%		½%
Medina (Nw part) Co.:					
Linemen; Cable splicers; Equipment ops.	12.50	.60	3% + .80		½%
Beginning truck driver groundman; Beginning groundman	5.96	.60	3% + .80		½%
Advanced truck driver (winch) groundman; Groundman (over 2 years' experience)	7.04	.60	3% + .80		½%
Medina (Rem. of Co.), & Wayne (N ½ of Co.):					
Linemen	12.08	.57	3% + .65		½%
Cable splicer	12.88	.57	3% + .65		½%
Truck drivers; Groundmen	6.04	.57	3% + .65		½%
Equipment operators	9.06	.57	3% + .65		½%

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Greene, Somerset & Potter

DECISION No.: PA78-3015

DATE: Date of Publication

Supersedes Decision No.: PA77-3055 dated May 13, 1977, in 42 FR 24688.

DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE I	$11.56	.85	.90		
ZONE II	11.71	1.02	.55		.04

AREA COVERED BY ASBESTOS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

BOILERMAKERS					
ZONE I	12.80	1.05	1.00		.02
ZONE II	9.815	7.5%	7%		.01

AREA COVERED BY BOILERMAKERS ZONES

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

BRICKLAYERS & STONEMASONS					
ZONE I	10.15	.45	.71		
ZONE II	10.55	.60	.80		.03
ZONE III	11.00	.55	.50		

AREA COVERED BY BRICKLAYERS AND STONEMASONS

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

CARPENTERS					
ZONE I	9.24	6%	8%	6%	.4%
ZONE II	9.73	6%	8%	6%	.2%

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AREA COVERED BY CARPENTERS ZONES

ZONE I - Somerset & Potter Counties

ZONE II - Greene County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS					
ZONE I	10.62	.64	1.70		
ZONE II	9.95	12%	6%		
ZONE III	10.10	.50	.50		

AREA COVERED BY CEMENT MASON ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

ELECTRICIANS					
ZONE I	12.10	.40	3%+.30	.60	.10
ZONE II	9.48	.50	3%+.30	.60	.02

AREA COVERED BY ELECTRICIANS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE I	10.09	.72	.82	.83	.01
ZONE II	9.74	1.40	.55		.10
ZONE III	8.09	.25	.30		.01

AREA COVERED BY GLAZIERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Northern part of Potter County

ZONE III - Southern part of Potter County

IRONWORKERS					
ZONE I	8.95	.60	.50	5%	.03
ZONE II	10.835	.70	1.155		.07
ZONE III	9.34	.50	.60		

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Greene County

ZONE II - Potter County

ZONE III - Somerset County

LABORERS					
ZONE I					
CLASS 1	8.67	.78	.65		
CLASS 2	8.795	.78	.65		
CLASS 3	8.92	.78	.65		
CLASS 4	9.17	.78	.65		
CLASS 5	9.37	.78	.65		
ZONE II					
CLASS 1	8.48	8%	6.5%		3.5%
CLASS 2	8.73	8%	6.5%		3.5%
CLASS 3	9.28	8%	6.5%		3.5%
ZONE III					
CLASS 1	7.70	10%	8%		
CLASS 2	8.20	10%	8%		
CLASS 3	8.30	10%	8%		
CLASS 4	8.20	10%	8%		
CLASS 5	7.75	10%	8%		

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LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE I - Greene County

CLASS 1 - Laborers, carryable pumps, west brick buggy or similar, vibrator operators, walk behind forklift or similar (non self-propelled), stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, incl. starting & stopping)

CLASS 2 - West brick buggy or similar (self-propelled), power wheelbarrows & buggies, walk behind forklift or similar (self-propelled), wagon drill helper, drill runner, drill runner's heloer, (incl. drill mounted on truck, track or similar), blaster's helpers, all operators of compacting equipment, pipe layer, burner,jackhammerman, concrete buster

CLASS 3 - Hod carrier, scaffold builder, bell & bottom man on furnances & stacks, mortar mixer, mortar mixing machine (regardless of power used, inc. starting & stopping), grout machine feeder & pump operator, concrete saw operator, wagon drill operator

CLASS 4 - Gunnite nozzleman

CLASS 5 - Blaster & wagon drill operator

ZONE II - Potter County

CLASS 1 - Common laborer, carpenter tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building materials handlers (loading and unloading), concrete pitman, puddler, mason tender

CLASS 2 - Mechanical tampers (power) powered wheelbarrows and buggies & work-lifts, sweepers and similar, mortar mixer, bell bottom man on furnances and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted trucks, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting torch, carryayable pumps, chain saw operator, pipe layers, all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterer tender, form cleaning machine operator, plasterer applicating and/or pump machine operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman blacksmith, tool dresser (cable tools)

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LABORERS CLASSIFICATION DEFINITIONS AND AREA COVERED

CLASS 3 - Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, walder, driller (cable tools)

ZONE III - Somerset County

CLASS 1 - Unskilled laborers

CLASS 2 - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS 3 - Blasters

CLASS 4 - Air track men, demolition of chimmeys and erection of towers, antennas, cooling towers (on power plants) or other similar work in excess of 10' in height, suspension of workmen in swinging - cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterers tenders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION					
ZONE I					
Linemen, dynamite man, heavy equipment operator	10.80	.50	3%		3/8%
Winch truck operator	7.59	.50	3%		3/8%
Groundman	7.26	.50	3%		3/8%
ZONE II					
Linemen	12.83	.45	3%		3/8%
Groundman	7.70	.45	3%		3/8%
Winch truck operator	8.98	.45	3%		3/8%

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AREA COVERED BY LINE CONSTRUCTION

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	9.86	6%	6%	.22%	1/2%
PAINTERS					
ZONE I					
Commercial					
Brush	8.85	.65	.40		.05
Spray	9.975	.65	.40		.05
Industrial					
Brush	9.35	.65	.40		.05
Spray	10.475	.65	.40		.05
ZONE II					
Commercial					
Brush & Roller	9.49	.75	.45		.02
Spray	9.54	.75	.45		.02
Industrial					
Brush	10.24	.75	.45		.02
Spray	10.74	.75	.45		.02
ZONE III					
Commercial					
Brush and Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial					
Brush, Roller and Spray	10.10	.55	.80		

AREA COVERED BY PAINTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	11.15	5.5%	10%		.50%
PLASTERERS					
ZONE I	9.39	.37	.70		
ZONE II	9.00		5%		.01
ZONE III	10.10	.50	.50		

AREA COVERED BY PLASTERERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

PLUMBERS					
ZONE I	11.20	.78	1.03		.22
ZONE II	11.07	.85	1.16		.07
ZONE III	10.56	.69	.50	.20	.05

AREA COVERED BY PLUMBERS ZONES

ZONE I - Somerset County & the extreme eastern portion or Greene County

ZONE II - Remainder of Greene County

ZONE III - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
ZONE I					
CLASS 1	11.625	.65	.80		.09
CLASS 1-A	11.875	.65	.80		.09
CLASS 1-B	12.125	.65	.80		.09
CLASS 1-C	12.375	.65	.80		.09
CLASS 2	11.475	.65	.80		.09
CLASS 3	10.40	.65	.80		.09
CLASS 3-A	10.90	.65	.80		.09
CLASS 4	10.40	.65	.80		.09
CLASS 5	9.65	.65	.80		.09
CLASS 6	9.40	.65	.80		.09
CLASS 6-A	9.50	.65	.80		.09
CLASS 6-B	9.65	.65	.80		.09
CLASS 6-C	10.15	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE I - Greene County Only

CLASS 1 - Austin-Western or similar type up to 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar), backhoe, batch plant when conveyors are used for direct feeding or discharge, batch plant - no conveyors for direct feeding or discharge (without oiler) cableway, caisson drill central mix plant, cranes (excluding overhead) truck or crawler type) cranes - tower (mobile) cranes tower (climbing type), derrick traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentice), derrick boats, dragline, dredge, engineer-maintenance (mechanic weekly rated), franki or similar type, pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes, Hi- Lift 4 yds. or over hoist-hod (2 cages up to 10 floors) hoist-single cage with Chicago boom attached hoist (50 ft. or over) (stacks stoves or furnances), hoist (slipform jobs) hop-to or similar type with 180 swing, hop-to or similar type with 360 swing kocal, koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobile or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver - quard rail (truck mounted pumpkrete-mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar, tractors - boom mounted (all types) tractors (all types with hydraulic backhoe attached), tug boat, whitley

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1-A - Austin-Western or similar type up to 25 tons with jib, austin western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft.or over up to & including 150 ft. (truck or crawler type) cranes - mobile (any type 15 ton or over) hoist-rod (2 cages over 10 floors)

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. (truck or crawler type), engineer - lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75

CLASS 2 - Auger - truck or tractor mounted, back filling machine, boat - material or personnel carrying (powered) boat of job work (inboard or outboard), bull-dozer, cable layer, compactor with blade, concrete belt placer, crane - over-head, crushing & screening plants, drill - davey or similar type, drill - core (truck or skid mounted), drill - well & core (truck mounted) elevator (new buildings and major remodeling old), euclid loader, excavating equipment (all other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), Hi-Lift less than 4 yds, hoist - one drum (4 floors or over), hoist - hod (building 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic), Mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for constr. jibs ie. cooling, concrete & holding banks), ross carrier (or similar type) scoop (single bowl) self-powered & tractor drawn) spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material) trencher, well point systems, grout pump (10 H.P. or over) paver operator asphalt (spreader), pumpcrete or similar type (not self-propelled) pumpkrete machine operator (stationary), tire repairman (when assigned to job), welder repairman) asphalt plant operator, athey loader

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 3 - Oilers, compactor (ridden or self-propelled), crane (carry) curb builder (self-propelled) drills-wells and horizontal, elevator (alterations of old building), forklifts (ridden or self-propelled), hoist one drum (regardless of power used) pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finishing (CMI or similar type), tugger, truck (winch) truck or hydraulic boom (when hoisting & placing), ballast regular or, boring machine, broom, power (except push type), conveyor over 1 and up to units (regardless of power used) form line machine, hoists (monorial) regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer mortar - over 10 cu. ft. (regardless of power used), spray cure machine power driven steam jenny (or similar type) syphon (steam or air), welding machine single (300 amp or over) (other than electrically driven

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except pust type), compressor -siIngle (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used), form line machine, generator (over 5 KW), hoists (monorail) (regardless of power used), hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer mortar - over 10 cu. ft. (regardless of power used), pump (over 1¼" discharge regardless of power used), spray cure machine (power driven), steam jenny (or similar type), syphone (steam or air), welding machine single (300 amp or over) other than electrically driven, plant, private or industrial air or steam valve

CLASS 5 - Compressor - 65 cu. ft. or under (regardless of power used), conveyor one (1) unit (regardless of power used), heaters - up to and including 6, jack motor hydraulic (single type) power driven, ladavator, mixer mortar (10 cu. ft. or under), mulching machine, pin puller (powered), pulverizer, pump - 1'" discharge or less, seedming machine, spreader side delivery, shoulder (attachment), tie tamper (multiple heads), tractor farm (when used for landscaping), water blaster

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanical helper

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
POWER EQUIPMENTOPERATORS					
ZONE II					
CLASS 1	12.275	.95	.80		.09
CLASS 1-A	12.525	.95	.80		.09
CLASS 1-B	12.775	.95	.80		.09
CLASS 1-C	13.025	.95	.80		.09
CLASS 2	12.125	.95	.80		.09
CLASS 3	10.25	.95	.80		.09
CLASS 3-A	10.75	.95	.80		.09
CLASS 4	9.60	.95	.80		.09
CLASS 5	8.55	.95	.80		.09
CLASS 6	8.85	.95	.80		.09
CLASS 6-A	8.95	.95	.80		.09
CLASS 6-B	9.10	.95	.80		.09
CLASS 6-C	9.85	.95	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE II - Somerset & Potter Counties

CLASS I - Austin-Western or similar type under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) useof oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod (2 cages up to 10 floors) Chicago Boom attached hoist (50 ft. or over) (stacks, stoves or furnances) hoist (slipform jobs hop to or similar type with 180 swing hop to or similar type with 360 swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - boom mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes ((boom or mast over 200 ft. + .75)

CLASS 2 - Asphalt plant operator, athey loader, auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushing & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (new buildings), euclid loader, excavating equipment (all other), forkliftlull or similar, grader, grader elevating, greaser-equipment (head), hi-lift-less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine, refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (the following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½ discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grouth pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1) (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regardless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (the following machines shall be considered minor) compressors (2) generators (2) mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3),(other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanic helper

CLASS 6-A - Crane truck oiler & fireman

CLASS 6-B - Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C - Oiler - truck crane 100 ton and over

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE I	11.41	.77	1.50		.06
ZONE II	8.50	.50	.45	.15+e	

AREA COVERED BY ROOFERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

SHEET METAL WORKERS					
ZONE I	9.58	.75	.90		.03
ZONE II	10.90	.90	1.23		.14

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

SOFT FLOOR LAYERS					
ZONE I	9.95	6%	6%	.60	5%
ZONE II	9.24	5%	8%	6%	.4 of 1%

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE I - Greene County

ZONE II - Somerset & Potter Counties

SPRINKLER FITTERS	12.31	.75	1.05		.08
STEAMFITTERS					
ZONE I	12.19	.75	1.10		.11
ZONE II	9.73	.68	.68		.19
ZONE III	9.76	.64	.45	.20	.05

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AREA COVERED BY STEAMFITTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS					
ZONE I	10.15	.45	.71		
ZONE II	11.26	.60	.85		
ZONE III	10.10	.50	.50		

AREA COVERED BY TERRAZZO WORKER ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

TILE SETTERS					
ZONE I	9.38	.75	2.00		
ZONE II	10.10	.50	.50		

AREA COVERED BY TILE SETTERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
ZONE I					
CLASS 1	8.27	a	b		
CLASS 2	8.35	a	b		
CLASS 3	8.42	a	b		
CLASS 4	8.17	a	b		
ZONE II					
CLASS 1	8.34	6.5%	5.6%	c	
CLASS 2	8.39	6.5%	5.6%	c	
CLASS 3	8.41	6.5%	5.6%	c	
CLASS 4	8.50	6.5%	5.6%	c	
CLASS 5	8.43	6.5%	5.6%	c	
CLASS 6	8.70	6.5%	5.6%	c	
CLASS 7	8.52	6.5%	5.6%	c	
CLASS 8	8.68	6.5%	5.6%	c	
ZONE III					
CLASS 1	7.20	.20	.20		
CLASS 2	7.30	.20	.20		
CLASS 3	7.40	.20	.20		
CLASS 4	7.50	.20	.20		
CLASS 5	7.35	.20	.20		
CLASS 6	7.45	.20	.20		
CLASS 7	7.40	.20	.20		
CLASS 8	7.70	.20	.20		
CLASS 9	7.80	.20	.20		
CLASS 10	7.45	.20	.20		

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TRUCK DRIVERS CLASSIFICATION DEFINITION AND ARE COVERED

ZONE I - Somerset County

CLASS 1 - Service, dump, flat top, jeep, fuel & water

CLASS 2 - Transit mix, dump trailer, winch truck

CLASS 3 - Euclids & tractor trailer

CLASS 4 - Helper

ZONE II - Greene County

CLASS 1 - Warehouseman, chauffeur, and ambulance driver, service truck (pickup, jeep, busses, station wagon, panel truck, escort vehicle, including fuel and water trucks)

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tailgate); distributor truck over 33,000 lbs. -ross weight (oil, tar asphalt products two man operation, both men)

CLASS 3 - Transit mix, single axle

CLASS 4 - Transit mix, single axle

CLASS 5 - Heavy duty tractor and trailer with high bed, 4 wheels

CLASS 6 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 7 - Distributor truck up to 33,000 lbs. gross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with power tailgate and scissor trucks; euclids or equivalent, tri-axle including mixer, drivers towing equipment

CLASS 8 - Winch truck and form truck

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TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE III - Potter County

CLASS 1 - Trucks up to 30,000 lbs. includes pickups, fuel and water trucks), warehousemen

CLASS 2 - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 3 - Tri-axle trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 4 - Low Boy

CLASS 5 - Concrete mixer trucks

CLASS 6 - Concrete mixer truck (Tri-Axle)

CLASS 7 - Semi-trailer

CLASS 8 - Earth moving equipment up to 35 ton (belly dump, side dump, end dump, etc.)

CLASS 9 - Earth moving equipment over 35 ton (belly dump, side dump, end dump, etc.)

CLASS 10 - A-frame and winch trucks (when used for hauling material on bed of truck)

CLASS 11 - Distributor truck (oil, tar, asphalt, etc.)

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

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FOOTNOTES:

a. $59.00 per month

b. $14.00 per week

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

d. Paid Holidays: New Year's Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.

e. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months service 40 hours paid vacation.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Elk, Forest, McKean and Warren
DECISION NUMBER: PA78-3043 DATE: Date of Publication
Supersedes Decision No. PA77-3053 dated May 13, 1977, in 42 FR 24672.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Zone 1 - Elk County	$ 11.56	.85	.90		
Zone 2 - Forest County	11.04	.35	.50		.02
Zone 3 - McKean and Warren Cos.	11.31	1.17	.80		.04
BOILERMAKERS	9.815	7.5%	7%		.01
BRICKLAYERS, CEMENT MASONS and STONEMASONS:					
Zone 1 - Elk, McKean and Warren Counries	11.00	.55	.50		
Zone 2 - Forest County	10.65	.45	.95		
CARPENTERS and SOFT FLOOR LAYERS:					
Zone 1 - Elk, Forest, all of McKean County except Kane and Bradford	9.80	6%	8%	6%	.40 of 1%
Zone 2 - McKean County - Townships of Kane, Bradford and Warren County	8.86	6%	6%	2%	1/2%
ELECTRICIANS:					
Zone 1 - Elk, Forest and Warren Counties	11.80	4.5%	3%+.375	.70	.06
Zone 2 - McKean County	11.25	.60	3%+.40		1%
GLAZIERS:					
Zone 1 - Forest and Warren Cos.	9.80	.30	.20		
Zone 2 - McKean County	9.74	1.40	.55		.10
Zone 3 - Elk County	10.09	.72	.82	.83	.01
IRONWORKERS:					
Zone 1 -Forest and Warren Cos.	11.08	1.86	1.01		.10
Zone 2 - Elk and McKean Cos.	10.835	.70	1.155		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Common laborer, Carpenter tender, Scaffold builder for masons, Window cleaner, Form stripper and mover, Scaffold and runways, Building materilas handlers (loading and unloading), Concrete pitman, Puddler, Mason tender	$ 8.48	8%	6.5%		3.5%
Mechanical tamper (power) powered wheelbarrows and buggies and worklifts, sweepers and similar, Mortar mixer, Ball bottom man on furnaces and stacks, Jackhammer man, Concrete buster, Wagon drill helper, Concrete saw operator, Blaster's helper, Drill runner's helper (includes drill mounted truck, track or similar), Sheeters and shores, Vibrator operators, Power tamper torch, Carryable pumps, Chain saw operator, Pipe layers, all material conveyors and elevators, Signal man, Walk behind fork lift or similar, Whacker, Sand blaster, Maintenance man, West brick buggies or similar, Scaffold builder for plasterers regardless of height, Hod carrier, Plaster tender, Form cleaning machine operator, Plaster applicating and/or pump machine operator, Paving breaker, Asphalt Raker, Lancer, Berfix cutting tool, Gunnite potman, Blacksmith, Tool dresser (cable tools)	8.73	8%	6.5%		3/5%
Blasters, Wagon drill operator, Drill runner, Gunnite nozzle man, Grout machine operator, Walk behind power roller and tamper, walder, driller (cable tools)	9.28	8%	6.5%		3/5%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Wrecking Laborers	$ 8.48	8%	6.5%		3.5%
Low Burner	8.73	8%	6.5%		3.5%
Jackhammer Operator	8.73	8%	6.5%		3.5%
High Burner	9.53	8%	6.5%		3.5%
High Burner Helper	9.23	8%	6.5%		3.5%
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen, Dynamite man, Heavy equipment operator	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
MARBLE SETTERS:					
Elk, McKean and Warren Cos.	10.10	.50	.50		
MILLWRIGHTS:					
Zone 1 - Elk and Forest Cos.	9.86	6%	6%	22%	1/2%
Zone 2 - McKean County	8.90	.35	.20		.02
Zone 3 - Warren County	8.65	.25			.02
PAINTERS:					
Zone 1 - Elk County					
Brush and Roller	6.75		a		
Spray	7.25		a		
Zone 2 - Forest County; Township in Warren County; Spring Creek, Southwest Truimp and Eldred, Township in McKean County, Wetmore, Hamlin, Hamilton, Sergent and Norwich					
Commercial:					
Brush and Roller	10.10	.55	.80		
Spray	11.10	.55	.80		
Industrial:					
Brush and Roller	10.60	.55	.80		
Spray	11.15	.55	.80		
Zone 3 - Remainder of Warren Co.					
Brush	7.45	6%			
Spray	8.14	6%			
Zone 4 - Remainder of McKean Co.					
Brush and Roller	9.00				
Spray	10.15				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$ 11.15	5.5%	10%		.50%
PLASTERERS:					
Elk, McKean and Warren Cos.	9.60	.50	.50		
PLUMBERS and STEAMFITTETS:					
Zone 1 - Elk County	11.20	.78	1.03		.22
Zone 2 - Forest County and Tidioute Township in Warren Co.:					
Contracts under $10,000	9.94	.60	.65		.08
Contracts over $10,000	10.45	.60	.65		.08
Zone 3 - McKean County					
Contracts under $500.00	8.32	.33	.50		.04
Contracts over $500.00	11.39	.33	.50		.04
Zone 4 - Remainder of Warren County	9.72	.30	.50		.04
POWER EQUIPMENT OPERATORS:					
Class 1	12.275	.65	.80		.09
Class 1-A	12.525	.65	.80		.09
Class 1-B	12.777	.65	.80		.09
Class 1-C	13.025	.65	.80		.09
Class 2	12.125	.65	.80		.09
Class 3	10.25	.65	.80		.09
Class 3-A	10.75	.65	.80		.09
Class 4	9.60	.65	.80		.09
Class 5	8.55	.65	.80		.09
Class 6	8.85	.65	.80		.09
Class 6-A	8.95	.65	.80		.09
Class 6-B	9.10	.65	.80		.09
Class 6-C	9.85	.65	.80		.09

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

Class 1: Austin-Western or similar type, under 25 ton; Austin-Western or similar type, 25 ton or over; Auto grader (CMI or similar); Backhoe; Batch plant, when conveyors are used for direct feeding or discharge; Batch plant, no conveyors for direct feeding or discharge (without oiler); Cableway; Caisson drill; Central mix plant; Cranes (excluding overhead) (truck or crawler type); Cranes, tower (mobile); Cranes, tower (stationary)(climbing type); use of oiler to be discussed at pre job; Cranes, tower (climbing type); Cranes, hydraulic self contained, over 18 ton; Cranes, hydraulic self contained, 18 ton or less; Derrick traveler (self propelled); Derrick (all types)(when assistance required it will be an oiler or apprentice); Derrick boats; Dragline; Dredge; Engineer, maintenance; Franki or similar type pile driver; Gradall (remote control or otherwise); Helicopter (when used for erection purposes); Helicopter hoist operators (when used for erection purposes); Hi-lift, 7 yds. or over; Hoist-hod (2 cages up to 10 floors); Chicago boom attached hoist (50 ft. or over); (stacks, stoves or furnaces); Hoist (slipform jobs); Hop-to or similar type with 180° swing; Hop-to or similar type with 360° swing; Kocal koehring scooper; Metro chip harvester or similar type; Mixmobile or similar type (with self-loading attachment); Mix mobiling or smiilar type; Mucking machine (tunnel); Multiple bowl machines; Pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice); Post driver-guard rail (truck mounted); Post driver-guard (skid type); Pumpcrete - mobile or similar type; Quad nine; Shovels (all types); Slip form paver (CMI or similar); Tractors - boom mounted (all types); Tractors (all types with hydraulic backhoe attached); Tug boat; Whirley

Class 1-A: Austin-Western or similar type, under 25 ton with jib; Austin-Western or similar type, 25 ton or over with jib; Cranes (boom or mast 100 feet or over over up to and including 150 ft. +$.25) (truck or crawler type); Cranes, mobile (any type 15 ton or over placed on any building structure +$.25); Hoist-hod (2 cages over 10 floors); Class 1 rate +$.25; Hoist, single cage

Class 1-B: Cranes (boom or mast over 150 ft. up to and including 200 ft. +$.50) (truck or crawler type); Engineer, lead

Class 1-C: Cranes (boom or mast over 200 ft. +$.75)

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS (Cont'd)

Class 2: Asphalt plant operator; Athey loader; Auger-truck or tractor, mounted; Back filling machine; Boat material or personnel carrying (powered); Boat-job work (inboard or outboard); Bulldozer; Cable layer; Compactor with blade; Compressor (1) and air tugger (1) (combination); Compressor (1) and gunite machine (1) (combination); Concrete belt placer; Crane - overhead; Crushing and screening plants; Drill-Davey or similar type drill - Core (truck or skid mounted); Drill-well and core (truck mounted); Elevator (new buildings); Euclid loader; Excavating equipment (all other); Forklift-lull or similar; Grader; Grader-elevating; Greaser-equipment (head); Hi-lift, less than 4 yds.; Hoist-one drum (4 floors or over); Hoist-hod (buildings, 4 floors or more); Hoist (2 drums or more in one unit); Jumbo operator; Locomotive; Lift slab machine (hydraulic); Mixer, paving; Mulching machine; Pipe cleaning machine; Refrigeration plant (used for construction jobs that is, cooling concrete and holding banks); Ross carrier (or similar type); Scoop (single bowl)(self-powered and tractor drawn); Spreader (concrete, asphalt and stone); Tower mobile (hoisting or lowering material); Trencher; Well point systems (the following machines shall be considered minor); Compressors (3 within a reasonable distance); Generators, electric (3) (over 5 KW up to 20 KW); Pumps (1½" discharge) (within reasonable distance); Welding machines (4 to 6 within reasonable distance)(other than electrically driven); Grout pump (10 H.P. or over); elevator (when used for alterations and remodeling all buildings); Paver operator, asphalt (spreader); Pumpcrete or similar type (not self-propelled); Pumpcrete machine operator (stationary); Tire repairman (when assigned job); Welder (repairman)

Class 3: Boiler; Compactor (ridden or self-propelled); Compressor (over 125 CFM and air pump); Compressor (1) and sandblasting machine (1)(Combination); Crane (carry); Curb builder (self-propelled); Drills-well and horizontal truck mounted; Forklifts (ridden or self-propelled); Hoist, one drum (regardless of power used); Pavement breaker (self-propelled or ridden); Pipe dream; Roller, Saw (concrete); Soil stabilizer (pump type); Stone crusher; Stone spreader, self-propelled; Tractors (when used for snaking and hauling); Tube finisher (CMI or similar type); Tugger; Truck (winch); Truck or hydraulic boom (when hoisting and placing); (The following machines shall be considered minor): Compressors (2); Generators (2); Mortar machines over 10 cu. ft., and single unit conveyor; Pumps (1½" discharge or less (2 to 3); Pumps (over 1½" discharge (2) in bank) (within reasonable distance); Welding machine (2 to 3) (other than electrically driven)

Class 3-A: Conveyors, 4 units or more

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS (Cont'd)

Class 4: Ballast regulator; Boring machine; Broom, power (except push type); Compressor - single (over 65 CFM); Conveyor, over 1 and up to 3 unite (regardless of power used); Form line machine; Generator (over 5 KW); Hoist (monorail) (regardless of power used); Hoist, roof (regardless of power used); Muck machine or similar type; Mixer, concrete (regardless of power used); Mixer, mortar (over 10 ft. - regardless of power used); Pump (over 1½" discharge - regardless of power used); Spray cure machine (power driven); Steam jenny (or similar type); Syphon (steam or air); Welding machine, single (300 amp or over) (other than electrically driven); Plant, private or industrial air or steam valve

Class 5: Compressor, 65 cu. ft. or under (regardless or power used); Conveyor, one (1) unit (regardless of power used); Heaters, up to and including 6; Jack motor, hydraulic (single type); Power driven ladavator; Mixer, mortar (10 cu. ft. or under); Mulching machine; Pin puller (powered); Pulverizer; Pump, 1½" discharge or less; Seeding machine; Spreader, side delivery; Shoulder (attachment); Tie tamper (multiple heads); Tractor, farm (when used for landscaping); Water blaster; Oiler-truck crane, 50 ton up to not including 100 ton

Class 6: Brake man; Deck hand; Helicopter signalman; Oiler; Mechanic helper

Class 6-A: Crane, truck oiler and Fireman

Class 6-B: Oiler, truck crane , 50 ton up to and including 100 ton

Class 6-C: Oiler, truck crane, 100 ton and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Zone 1 - Elk and Forest Counties	$ 11.41	.77	$ 1.50		.06
Zone 2 - McKean and Warren Cos.	8.50	.50	.45	.15+b	
SHEET METAL WORKERS	9.58	.75	.80		.055
SPRINKLER FITTERS	12.31	.75	1.05		.08
SOFT FLOOR LAYERS:					
Zone 1 - Elk and Forest Counties	8.65	5%	8%	6%	.40 of 1%
Zone 2 - McKean County	6.90	.35	.20		.02
Zone 3 - Warren County	8.15	.25			.02
TILE SETTERS and TERRAZZO WORKERS:					
Zone 1 - Elk, McKean and Warren Counties	10.10	.50	.50		
Zone 2 - Forest County	9.65	.45	.45		
WELDER - rate of Craft					

FOOTNOTES:

a. Paid Holiday: Labor Day, provided the employee has worked six calendar months and appears on the payroll during the pay period in which the holiday occurs.

b. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months 40 hours paid vacation.

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Luzerne

DECISION NUMBER: PA78-3044 DATE : Date of Publication

Supersedes Decision No. PA77-3059 dated May 20, 1977, in 42 FR 26176

DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.70	.65	.60		.01
BOILERMAKERS	12.80	1.05	1.00		.02
BRICKLAYERS; Stonemasons:					
Hazleton, Berwick and Freeland:					
Commercial	9.70	.35	.50		
Nescopeck, Hollenback and Salem Townships	9.45	.55	.70		.01
Remainder of County	10.85	.50	.50		
CARPENTERS:					
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	10.14	.40	.50		.03
Remainder of County	10.61	.40	.50		.03
CEMENT MASONS:					
Pittston, Yatesville, Laflin, Exeter Wyoming, Deryea and Avoca	9.15	.40	.40		
All North of Hazleton, extending half-way between Wilkes-Barre and Hazleton, Harleigh, Jeddo, Cranberry; Foster Township, Butler Township, Dennison Township, Sugarloaf Township, Conyngham, Drums, S. Johns, Borough of Freeland, Borough of White Haven, Banks Township; Beaver Meadows, Tresckow, Jeansville and Audenried	11.25				
Remainder of County	11.05				
ELECTRICIANS:					
Hazleton:					
Commercial	10.79	.55	3%+.25	a	b
Remainder of County	10.74	.50	3%+.75		.03
ELEVATOR CONSTRUCTORS	11.04	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.99	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS (PORB.)	5.52				
GLAZIERS	9.20	.40	.60		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Structural and Ornamental	$ 11.90	e			.10
Reinforcing	11.80	e			.10
LABORERS:					
Hazleton:					
Laborers	7.31	.30	.70		
Mason tenders including scaffold builders	7.71	.30	.70		
Pneumatic, electric and mechanical tool operators 2" pumps-non metallic pipelaying and making joint clay, Terra cotta, Ironstone vitrified concrete, Handling of burning torches, asphalt or other hot materials, Cement finishers and blasters' helpers, Power buggies, Walk along hoist	7.41	.30	.70		
Plasterers' tenders, Blasters, and wagon drill operators	7.56	.30	.70		
Remainder of County:					
Unskilled laborers	8.77	.30	.70		
Semi skilled laborers, Pneumatic and other mechanical tool operators; 2" pump or under, Handling and mixing of all material used by masons from stock pile to mason; Non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concerte, Handling of burning torches, asphalt or other hot material, Cement finishers and blasters' helpers	8.97	.30	.70		
Plasterers' tenders, Blaster, Wagon drill operators	9.09	.30	.70		
Mason tenders and scaffold builders	9.17	.30	.70		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Pittston, Avoca, Dupont and Duryea	$ 10.04		.10		.01
Remainder of County	11.78		.35		.01
LEADBURNERS	10.75	.40	.25	f	.01
LINE CONSTRUCTION:					
Linemen, Dynamiteman, Heavy equipment Operator	10.80	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
Winch truck driver	7.59	.50	3%		3/8 of 1%
MARBLE SETTERS:					
Pittston	10.85	.50	.50		
Hazleton	9.20	.35	.50		
Remainder of County	10.00		.50		
MILLWRIGHTS	11.29	.40	.50		.03
PAINTERS:					
Pittston:					
Brush and Roller	8.40		1.20		
Structrual steel	9.40		1.20		
Remainder of County:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
PILEDRIVERMEN	10.77	2.13	1.30	g	.12
PLASTERERS:					
Hazleton	9.40				
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	10.85	.50	.50		
Remainder of County	9.83				
PLUMBERS; Steamfitters:					
Pittston	10.75	.39	.95		.04
Hazleton	9.35	.30	.25		
Wilkes Barre	11.49	.40	.75		.04
POWER EQUIPMENT OPERATORS:					
Group 1	12.44	7%	10.3%	k	1.8%
Group 2	12.15	7%	10.3%	k	1.8%
Group 3	11.28	7%	10.3%	k	1.8%
Group 4	10.51	7%	10.3%	k	1.8%
Group 5	10.04	7%	10.3%	k	1.8%
Group 6	9.13	7%	10.3%	k	1.8%
Group 7	12.69	7%	10.3%	k	1.8%
Group 7-A	12.94	7%	10.3%	k	1.8%
Group 7-B	13.18	7%	10.3%	k	1.8%

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

Group 1: Machines doing hook work; Any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to the above

Group 2: All types of Cranes; All types of backhoes; Cableways; Dragline; Keystones; All types of shovels; Derricks; Trench shovels; Trenching machines; Hoist with two towers; Pavers, 21E and over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All front end loaders, 3½ cu. yds. and over; Tandem scrapers; Pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift and over; machine similar to the above

Group 3: Conveyors; Building hoists (single drum); Scrapers and Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers and tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Drill helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machine similar to the above

Group 4: Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line garders; Fine grade machines; Road finishing machines; Concrete breaking machines; Rollers; Seaman pulverizing mixer; Power broom; Seeding spreaders; Tireman (for power equipment); Machines similar to above

Group 5: Fireman, Grease truck

Group 6: Oilers and deck hands (personnel boats); Core drill helper

Group 7: All machines with booms (including jib, masts, leads, etc.); 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, Composition and Kettlemen	$ 9.65	.85	.80		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS	8.88	.40	.50		.03
SPRINKLER FITTERS	12.31	.75	1.05		.08
TRUCK DRIVERS:					
Pittston:					
Class 1	8.97				
Class 2	9.04				
Class 3	8.53				
Remainder of County:					
Pickups service dump and flat including 2 license	8.07	h	j		
All trucks over 2 license	8.12	h	j		
Fork lifts; Tow motors; Front and pneumatic tired loaders	8.08	h	j		

TRUCK DRIVERS - CLASSIFICATIONS
PITTSTON

Class 1: Helper; Stake body truck (single axle dumpster)

Class 2: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles asphalt distributors; Farm tractor when used for transportation; Stake body truck (tandem)

Class 3: Euclids type; Off-highway equipment - back or belly dump trucks and double-hitched equipment; Straddle (Ross Carrier); Low-bed trailers

WELDERS: receive rate rate for craft

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

A. Paid Holidays: C and D

b. Employer shall contribute $.12 per day per employee

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

e. Employer contributes $2.20 per hour to Health and Welfare and Pension Fund.

f. Paid Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

h. $41.00 per month for employees who have worked 60 hours or more during the month

j. $25.00 per month to employees employed for over 13 weeks.

k. Paid Holidays: A thru F provided the employee works the day before and the day after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Lackawanna, Sesquehanna, Wayne and Wyoming

DECISION NUMBER: PA78-3045

DATE: Date of Publication

Supersedes Decision No. PA77-3050 dated May 13, 1977, in 42 FR 24669

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.70	.65	.60		.10
BOILERMAKERS	12.80	1.05	1.00		.02
BRICKLAYERS; Stonemasons:					
Scranton in Lackawanna County	10.70	.75	.80		.01
Carbondale in Lackawanna Co.	9.95		1.05		
Susquehanna and Wyoming Cos.	10.85	.50	.50		
CARPENTERS:					
Lackawanna, Susquehanna and Wayne Counties	9.65	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.40	.43	.50		.05
West of Susquehanna River	10.61	.40	.50		.03
CEMENT MASONS:					
Wyoming, Waynee, Susquehanna Counties, Scranton in Lackawanna County	9.15	.40	.40		
Carbondale in Lackawanna Co.	9.95		1.05		
ELECTRICIANS:					
Lackawanna, Susquehanna and Wayne County	10.45	.50	3%+.50	.50	.10
Wyoming County:					
East of Susquehanna River	10.45	.50	3%+.50	.50	.10
West of Susquehanna River	10.74	.50	3%+.50	.50	.10
ELEVATOR CONSTRUCTORS	11.04	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.73	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.52				
GLAZIERS	9.75	.40	.70		
IRONWORKERS:					
Lackawanna, Wayne and Wyoming Cos.					
Structural and Ornamental	11.90	e			.10
Reinforcing	11.80	e			.10
Susquehanna County	9.75	.56	.72		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Lackawanna, Wayne, Susquehanna and Northern part of Wyoming County:					
Unskilled and Window Cleaners	$ 8.80	.48	.50		
Semi skilled Laborers; Jackhammer operators, (each man when two required for operation of jackhammer); Vibrator and buster men; Wagon drill and all men handling dynamite; Gas buggies; 2" pumps and concrete mixers (up to 2 bags) and all penumatic tools	8.95	.48	.50		
Plaster tenders and mason tenders and handling of all material to be used; Masons and Scaffold builders	9.20	.48	.50		
Non-metallic pipe layers and making of joints, clay, terra cotta, ironstone, vitrified concrete handling of burning torches; Asphalt or other material	8.95	.48	.50		
Southern part of Wyoming County:					
Unskilled	8.77	.30	.70		
Semi skilled laborers; Pneumatic and other mechanical tool operator; 2" pump or under; Handling and mixing of all material used by masons from stock pile to mason; Non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concrete; Handling of burning torches; Asphalt or other hot material; Cement finishers and blasters' helpers	8.97	.30	.70		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Southern part of Wyoming County (Cont'd):					
Plasterers' tenders; Blaster; Wagon drill operators	$ 9.09	.30	.70		
Mason tenders and scaffold builders	9.17	.30	.70		
LATHERS	10.54		.10		.01
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Lineman; Dynamite man	10.80	.50	3%		3/8%
Winch Truck Driver	7.59	.50	3%		3/8%
Groundman	7.26	.50	3%		3/8%
MARBLE SETTERS	10.00		.50		
MILLWRIGHTS:					
Lackawanna, Susquehanna and Wayne Counties	10.98	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.98	.43	.50		.05
West of Susquehanna River	11.29	.40	.50		.03
PAINTERS:					
Brush and Roller	8.40		1.20		
Spray	9.90		1.20		
Steel	9.60		1.20		
PILEDRIVERMEN	10.77	2.13	1.30	d	.12
PLASTERERS	9.30	.40	.40		
PLUMBERS	11.49	.40	.75		.04
POWER EQUIPMENT OPERATORS:					
Group 1	12.44	7%	10.3%	a	1.8%
Group 2	12.15	7%	10.3%	a	1.8%
Group 3	11.28	7%	10.3%	a	1.8%
Group 4	10.51	7%	10.3%	a	1.8%
Group 5	10.04	7%	10.3%	a	1.8%
Group 6	9.13	7%	10.3%	a	1.8%
Group 7	12.69	7%	10.3%	a	1.8%
Group 7-A	12.94	7%	10.3%	a	1.8%
Group 7-B	13.18	7%	10.3%	a	1.8%

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

Group 1: Machines doing hook work; Any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to the above

Group 2: All types of Cranes; All types of backhoes; Cableways; Dragline; Keystones; All types of shovels; Derricks; Trench shovels; Trenching machines; Hoist with two towers; Pavers, 21E and over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All front end loaders, 3½ cu. yds. and over; Tandem scrapers; Pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift and over; machine similar to the above

Group 3: Conveyors; Building hoists (single drum); Scrapers and Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers and tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Drill helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machine similar to the above

Group 4: Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line garders; Fine grade machines; Road finishing machines; Concrete breaking machines; Rollers; Seaman pulverizing mixer; Power broom; Seeding spreaders; Tireman (for power equipment); Machines similar to above

Group 5: Fireman, Grease truck

Group 6: Oilers and deck hands (personnel boats); Core drill helper

Group 7: All machines with booms (including jib, masts, leads, etc.); 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition and Kettleman	$ 9.81	.42	.47		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLORR LAYERS:					
Lackawanna, Wayne and Susquehanna Counties	9.65	.43	.50		.05
Wyoming County	8.88	.40	.50		.03
SPRINKLER FITTERS	12.31	.75	1.05		.08
PIPEFITTERS	11.04	.65	.95		.04
TRUCK DRIVERS:					
Class I	8.97				
Class II	9.04				
Class III	9.53				

TRUCK DRIVERS - CLASSIFICATIONS

Class I: Helper; Stake body truck (single axle); Dumpster

Class II: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles aaphalt distributors; Farm tractor when used for transporation; Stake body truck (tandem)

Class III: Euclid type; Off-highway equipment - back or belly dump trucks and double hitched equipment; Straddle (Ross) carrier; Low-bed trailers

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidential.

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. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Paid Holidays: A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day; Presidential Election Day; Veterans' Day , Thanksgiving Day.

e. Employer contributes $2.20 to a Combined Health and Welfare and Pension Fund.

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: Statewide
DECISION NUMBER: SC78-1046 DATE: Date of Publication
Supersedes Decision NO. SC75-1031 dated March 14, 1975 in 40 FR 12058
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$ 3.06				
ASPHALT LAYDOWN MAN	2.65				
CARPENTER	4.69				
CARPENTER Helper	3.67				
CONCRETE FINISHER	4.25				
FORMSETTER ROAD	4.01				
IRONWORKERS Reinforcing & Structural	3.00				
LABORER, Common	2.91				
MASON	3.92				
MECHANIC	4.15				
MECHANIC Helper	4.00				
OILER	3.00				
PAINTER, Bridge	6.23				
PILEDRIVER, Leadman	4.75				
PIPELAYER	3.39				
SIGN ERECTOR	5.00				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	3.00				
Asphalt Paver	3.43				
Asphalt Plant	3.40				
Asphalt Plant Helper	2.80				
Bulldozer	4.41				
Bulldozer (utility)	3.58				
Cold Feed Attendant	3.36				
Concrete Finishing Machine	5.17				
Concrete Paver	4.63				
Crane, Backhoe, Dragline, Shovel: 1 yard & under	4.08				
Crane, Backhoe, Dragline, Shovel: over 1 yard	5.30				
Drill Operator	3.93				
Grade-all Operator	4.50				
Greaseman	3.36				
Hydro Seeder	4.38				
Loader Operator	3.63				
Motor Grader Oper. (fine grade)	4.35				
Motor Grader Oper. (rough grade)	3.96				
Power Tool Operator	3.00				
Roller Operator	2.97				
Roller Operator (finish)	3.41				

SC78-1046 Cont'd.

(2-2)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Scraper	$ 3.75				
Screed-asphalt	3.50				
Stone Spreader	3.00				
Striping Machine Operator	3.50				
Sweeper	2.93				
Tractor-crawler	3.25				
Tractor-utility	3.10				
Truck Driver (single-rear axle)	2.86				
Truck Driver (multi-rear axle)	3.02				
Truck Driver - Heavy Duty	3.44				
Weighman Scales (truck)	3.02				
Welder	4.77				

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Ector & Midland
DECISION NO.: TX78-4051 DATE: Date of Publication
Supersedes Decision No. TX76-4118, dated July 16, 1976, in 41 FR 29605.
DESCRIPTION OF WORK: Building Construction including Incidental Paving and Utilities (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.15	.70	.70		.07
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
Ector County	8.00				
Midland County	9.60				
CARPENTERS	8.85				.05
CEMENT MASONS	6.00				
ELECTRICIANS:					
ZONE 1 - shall include that area covered by the city limits of Midland & Odessa & extend out 20 miles therefrom	9.95	.60	3%		1/10%
ZONE 2 - shall include that area extending from the outer limits of Zone 1 out to & including 50 miles from the city limits of Midland & Odessa	10.25	.60	3%		1/10%
ZONE 3 - shall include that area extending from the outer limits of Zone 2 & shall extend to the outside limits of the Union Jurisdiction	10.45	.60	3%		1/10%
GLAZIERS	5.48				
IRONWORKERS:					
Structural; Ornamental; Reinforing	8.83	.55	1.00		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	8.955	.55	1.00		.10
LABORERS	3.94				
LATHERS	9.45				
PAINTERS:					
Brush	7.35	.30	.20		.04
Spray & sandblasters	8.10	.30	.20		.04
PLASTERERS	8.20				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - shall be 15 miles or less from the Courthouse of either Odessa	9.11		.44		.02
ZONE 2 - shall be more than 15 miles but less than 30 miles	9.21		.44		.02
ZONE 3 - shall be more than 30 miles but less than 45 miles	9.31		.44		.02
ZONE 4 - shall be more than 45	9.61		.44		.02

DECISION NO. TX78-4051

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 5.65				
SHEET METAL WORKERS	6.32				
TILE SETTERS	5.25				
TRUCK DRIVERS	3.94				
POWER EQUIPMENT OPERATORS:					
Asphalt paving machines	4.25				
Asphalt rakers	4.00				
Backhoes	4.90				
Bulldozers	4.50				
Cranes, derricks & draglines	5.59				
Foundation drills	4.12				
Front end loaders	4.00				
Motor graders	5.25				
Scrapers	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

STATE: VIRGINIA

COUNTIES: HENRICO AND THE INDEPENDENT CITY OF RICHMOND

DECISION NO.: VA78-3039

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA77-3089 dated July 1, 1977 in 42 FR 34261

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.78	.65	.65		.01
BOILERMAKERS	10.20	1.00	.90		.02
BRICKLAYERS AND STONEMASONS	9.50	.55	.30		.01
CARPENTERS AND SOFT FLOOR LAYERS	9.00	.40	.35		.02
CEMENT MASONS	8.40				
CEMENT MASONS MACHINE MAN	8.50				
ELECTRICIANS:					
ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	10.49	5%	3%		4%
ZONE II-remainder of city of Richmond and Henrico County	11.24	5%	3%		4%
ELEVATOR CONSTRUCTORS	9.66	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS	6.76	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	4.83				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS-STRUCTURAL, REINFORCING AND ORNAMENTAL:					
ZONE 1-up to 10 miles from Capital Square	10.25	.55	.50		.05
ZONE II-from 10 miles to 30 miles radius	10.625	.55	.50		.05
ZONE III-from 30 miles and beyond	10.875	.55	.50		.05
LABORERS:					
Unskilled	5.60	.20	.20		.05
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	5.70	.20	.20		.05
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble and Tile and Terrazzo Workers Helpers	5.85	.20	.20		.05
Burners (wrecking)	5.95	.20	.20		.05
Floor, Base and Terrazzo Grinders	6.00	.20	.20		.05
LABORERS (CONT'D)					
Wagon Drill, Air Trac and Similar Drills	$ 6.10	.20	.20		.05
Powdermen	6.35	.20	.20		.05
LATHERS:					
Plasterer and Drywall Finish	9.49		.20		.01
Sheet Rock Applicator	7.79		.20		.01
LEADBURNERS	10.75	.40	.25	c	.01
LINEMEN AND CABLE SPLICERS:					
ZONE I-within a 12 mile air radius of Staples Mill Road and Broad Street in the City of Richmond	10.49	5%	3%		4%
ZONE II-remainder of City of Richmond and Henrico COunty	11.24	5%	3%		4%
MARBLE, TILE AND TERRAZZO WORKERS	8.20				
MILLWRIGHTS	10.30	.40	.35		.01
PAINTERS:					
Brush, Paperhangers, Tapers and Finishers	8.05				
Structural Steel, Swing Stage and Bosun Chair	8.30				
Scaffold or Other Hazard Work Over 50 Feet	8.30				
Spray	8.55				
Sandblasting, Elevated Tanks, Smoke Stacks and All Towers	8.70				
PILEDRIVERMEN AND DOCKBUILDERS	8.20	.40	.35		
PLASTERERS	9.70				
PLUMBERS AND STEAMFITTERS	10.55	.45	.60		.05
ROOFERS COMPOSITION	6.20				
ROOFERS HELPERS	4.35				
SHEET METAL WORKERS:					
City of Richmond	10.32	.45	.35		.01
Remainder of County	10.57	.45	.35		.01
SPRINKLER FITTERS	9.48	.65	.96		.08
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. VA78-3039

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F, Day after Thanksgiving.

c. Paid Holidays: A through F; Washington's Birthday; Good Friday and Christmas Eve, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

DECISION NO. VA78-3039

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.65	.475	.40		.08
GROUP 2	7.70	.475	.40		.08
GROUP 3	6.30	.475	.40		.08
GROUP 4	6.10	.475	.40		.08
GROUP 5	5.91	.475	.40		.08

CLASSIFICATIONS:

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including well-points), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: YORK AND THE CITIES OF HAMPTON AND NEWPORT NEWS (including Langley AFB, Fort Eustis and Fort Monroe)

DECISION NO.: VA78-3042

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA77-3091 dated July 1, 1977 in 42 FR 34266

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories), Sewer and Water Line Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.55	.55	.55		
BOILERMAKERS	10.20	1.00	.90		.02
BRICKLAYERS AND STONE MASONS	9.25				
CARPENTERS AND SOFT FLOOR LAYERS	9.00	.40	.35		.02
CEMENT MASONS:					
CEMENT MASONS	8.40				
MACHINE AND SCAFFOLD MEN	8.50				
ELECTRICIANS:					
ZONE I-within a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
WIREMEN	9.85	6%	8%		1%
CABLE SPLICERS	10.10	6%	8%		1%
ZONE II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
WIREMEN	10.85	6%	8%		1%
CABLE SPLICER	11.10	6%	8%		1%
ELEVATOR CONSTRUCTORS	8.80	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS	6.16	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	4.40				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS:					
STRUCTURAL, ORNAMENTAL, RIGGERS, REINFORCING, FENCE ERECTORS, AND MACHINERY MOVERS	9.60	.60	.85		.08
LABORERS:					
UNSKILLED	5.60	.20	.20		.05
TENDERS, MOTORIZED GEORGIA BUGGY OPERATORS, NOZZLEMEN (gunite or sandblasting), CONCRETE SAW OPERATORS, AIR TOOL AND VIBRATOR OPERATORS	5.70	.20	.20		.05
MORTAR MIXERS, HOD CARRIERS, PIPELAYERS, CAULKERS, MARBLE, TILE AND TERRAZZO WORKER HELPERS	5.85	.20	.20		.05
BURNERS (wrecking)	5.95	.20	.20		.05
FLOOR, BASE, AND TERRAZZO GRINDER	6.00	.20	.20		.05

DECISION NO. VA78-3042

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
WAGON DRILL AND AIR TRAC	$ 6.10	.20	.20		.05
POWDERMEN	6.35	.20	.20		.05
LATHERS	10.00		.25		
LINE CONSTRUCTION:					
ZONE I-within a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
LINEMEN	9.85	6%	8%		1%
CABLE SPLICER	10.10	6%	8%		1%
ZONE II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
LINEMEN	10.85	6%	8%		1%
CABLE SPLICER	11.10	6%	8%		1%
MARBLE SETTERS	8.75				
MILLWRIGHTS	10.30	.40	.35		.01
PAINTERS:					
(York County from a point on the north shore of Queens Creek at the intersection of York River due west to a point on the eastern shore of James River including all cities therein the cities of Hampton and Newport News:)					
BRUSH AND ROLLER	7.70		.20		
PAPERHANGER, TAPER, SPRAY, ROLLER WITH A 6' HANDLE OR OVER, STRUCTURAL STEEL TO 74' FROM THE GROUND UP, SWING STAGE, UNDER 40', SANDBLASTING	8.05		.20		
SWING STAGE OVER 40', SPRAY EPOXY	8.30		.20		
EPOXY BRUSHED OR ROLLED	7.95		.20		
ALL WORK OVER 74' FROM THE GROUND	8.20		.20		
BITUMINOUS COATINGS, HOT CREOSITE	9.10		.20		

DECISION NO. VA78-3042

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: REMAINDER OF COUNTY OF YORK					
BRUSH AND ROLLER	$ 8.30		.20		
PAPERHANGING, TAPER, SPRAY, ROLLER WITH A HANDLE 6' OR OVER, STRUCTURAL STEEL 74' FROM THE GROUND UP, SWING STAGE UNDER 40', SANDBLASTING	8.65		.20		
SWING STAGE OVER 40', EPOXY SPRAYED	8.90		.20		
EPOXY BRUSHED OR ROLLED	8.55		.20		
ALL WORK OVER 74' FROM THE GROUND	8.80		.20		
BITUMINOUS COATINGS, HOT CREOSITE	9.70		.20		
PILEDRIVERMEN AND DOCKBUILDERS	8.20	.40	.35		
PLASTERERS	10.51				
PLUMBERS AND STEAMFITTERS	10.20	.45	.45		.02
ROOFERS COMPOSITION	6.20				
ROOFERS HELPERS	4.35				
SHEET METAL WORKERS:					
NEWPORT NEWS AND HAMPTON	9.55	.45	.55		.005
YORK COUNTY	9.80	.45	.55		.005
SPRINKLER FITTERS	9.48	.65	.95		.08
TERRAZZO WORKERS AND TILE SETTERS	8.75				
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. Holidays: A through F, Day after Thanksgiving.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

DECISION NO. VA78-3042

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:					
GROUP 1	$ 9.65	.475	.40		.08
GROUP 2	7.70	.475	.40		.08
GROUP 3	6.30	.475	.40		.08
GROUP 4	6.10	.475	.40		.08
GROUP 5	5.91	.475	.40		.08

CLASSIFICATIONS:

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including well-points), A-frame trucks, mechanic's helper

GROUP 4
Firemen

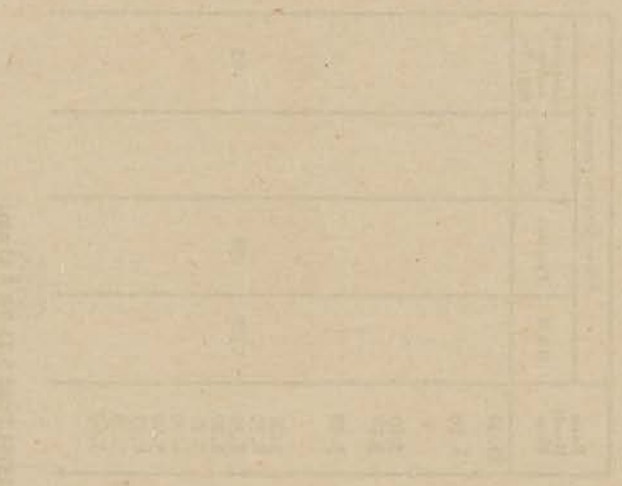
GROUP 5
Oilers

DECISION NO. VA78-3042

SEWER AND WATER CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$5.30				
CEMENT MASONS	4.50				
LABORERS:					
LABORER	3.00				
PIPELAYERS	3.24				
TRUCK DRIVERS	3.30				
POWER EQUIPMENT OPERATORS:					
BACKHOE	5.25				
BULLDOZER	4.70				
CRANE	7.30	.325	.30		.03
FORK LIFT OPERATOR	4.20				
FRONT END LOADER	3.75				
LOADER OPERATOR	4.00				
MOTOR GRADER	3.50				
OILER	4.15				
ROLLER	3.00				
SCRAPER	3.63				

[FR Doc. 78-12734 Filed 5-11-78; 8:45 am]



Federal Register

FRIDAY, MAY 12, 1978
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Procedures for Investigational Device Exemptions

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, and 812]

[Docket No. 76N-0324]

MEDICAL DEVICES

Procedures for Investigational Device Exemptions

AGENCY: Food and Drug Administration.

ACTION: Tentative final regulation.

SUMMARY: This tentative final regulation sets forth requirements for the conduct of investigations of medical devices involving human subjects, including procedures for the submission of applications for an investigational device exemption (IDE), a description of the responsibilities of sponsors of investigations, and requirements for obtaining informed consent from human subjects. This action is taken because the Medical Device Amendments of 1976 require the Food and Drug Administration (FDA) to prescribe by regulation procedures and conditions under which medical devices intended for human use might be exempted from certain requirements of the Federal Food, Drug, and Cosmetic Act to permit investigational studies concerning safety and effectiveness.

DATES: Comments on or before September 11, 1978; notices of appearance for the public hearing on this tentative final regulation to be filed with the Hearing Clerk on or before June 12, 1978.

Proposed effective dates: The Commissioner is proposing that the final regulation based on this tentative final regulation be effective 120 days after the date the final regulation is published in the FEDERAL REGISTER.

However, sponsors of ongoing investigational studies who wish to ensure that these studies can continue without interruption during the 30-day period for FDA review of applications should submit applications by 90 days after date of publication of the final regulation in the FEDERAL REGISTER.

ADDRESS: Comments (5 copies identified by Doc. No. 76N-0324) shall be submitted to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Frank Morlock, Bureau of Medical Devices (HFK-122), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 20, 1976 (41 FR 35282), FDA Proposed regulations on investigational device exemptions. Final regulations governing investigational studies of intraocular lenses were published in the FEDERAL REGISTER of November 11, 1977 (42 FR 58874). Based on the many comments received on the proposal, the Commissioner of Food and Drugs has revised the proposal with respect to devices other than intraocular lenses and is issuing it as a tentative final regulation with opportunity for comment and a public hearing. This action will be followed by the agency's consideration of comments on the tentative final regulation and publication of a final regulation. The tentative final regulation omits Subparts D and E of the proposal regarding the responsibilities of institutional review committees and investigators, respectively. These omitted matters will be addressed by comprehensive agency-wide regulations governing all FDA-regulated clinical investigations. Also omitted are portions of Subpart C regarding the responsibilities of sponsors that have been addressed in proposed regulations on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977 (42 FR 49611). If certain responsibilities of sponsors, investigators, and institutional review committees in the area of device investigations need to differ from, or are not addressed in, these comprehensive regulations, separate supplemental regulations concerning these special or different responsibilities will be published.

To provide interested parties an opportunity to begin clinical investigations in a way that anticipates future FDA requirements, FDA will accept applications for investigational device exemptions before the effective date of the final regulation, if the applicant complies with the requirements in this tentative final regulation. Procedures for early submission of applications for investigational device exemptions are discussed at the end of this preamble.

OPPORTUNITY FOR PUBLIC HEARING

The Food and Drug Administration will hold a public hearing on the investigational device regulations. Any interested person who files a notice of appearance may participate in the hearing in accordance with Part 15 (21 CFR Part 15). The hearing will be held approximately 90 days after the date of publication of this reproposal and will be governed by Part 15 of FDA's administrative practices and procedures regulations, which specifies the requirements for filing notices of appearance. A notice of the exact date, time, and place for the hearing will appear in a future issue of the FEDERAL REGISTER.

STATUTORY BACKGROUND

The Medical Device Amendments of 1976 (Pub. L. 94-295) (the Amendments), amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) (the act) became law on May 28, 1976. Section 520(g) (21 U.S.C. 360j(g)) authorizes the exemption of devices from otherwise applicable provisions of the act to permit devices to be shipped for investigational studies to determine their safety and effectiveness. To provide flexibility in regulatory requirements, section 520(g) of the act permits variations in the procedures and conditions governing investigational device exemptions, depending on the nature, scope, and purpose of the study. The preamble to the August 20, 1976 proposal contains a detailed description of the statute.

DECISION TO PUBLISH TENTATIVE FINAL REGULATION

The period for comment on the proposal closed on October 19, 1976. Although numerous requests for extension of the comment period were received, the Commissioner decided not to extend the comment period but did agree to consider all comments received before issuing a final regulation. Because of the heavy volume of comments and the desire to increase public participation in the development of the investigational device regulation, the Commissioner decided to issue a tentative final regulation in the FEDERAL REGISTER, to be followed by a public hearing, before issuing a final regulation. A tentative final regulation has the same legal status as a proposal or reproposal; i.e., it is not final agency action. It is an interim step sometimes used by FDA to permit additional public participation before promulgating a final regulation. (See § 10.40(f)(9) (21 CFR 10.40(f)(9)).) Unless otherwise indicated, all references in this preamble to proposals under part 812 refer to part 812 as reproposed in this tentative final regulation.

DEFERRAL OF ACTION ON SPONSOR MONITOR, INVESTIGATOR, AND INSTITUTIONAL REVIEW COMMITTEE RESPONSIBILITIES

The initial proposal under part 812 (21 CFR part 812) on investigational device exemptions contained seven subparts: Subpart A set forth general provisions and provisions of applicability; subpart B described the procedures for submission and review of applications for investigational device exemptions; subparts C, D, and E set forth the responsibilities of sponsors, institutional review committees, and investigators, respectively; subpart F stated requirements for informed con-

sent of human subjects; and subpart H stated requirements for investigational studies that do not involve human subjects.

As discussed in the preamble to the proposal, FDA is currently making a number of efforts to improve, clarify, and strengthen its regulatory program for control of investigational articles. Included in these efforts is the development of comprehensive proposed regulations by internal FDA task forces composed of representatives of FDA bureaus. These task forces are responsible for developing and proposing to the Commissioner agency policy that is uniform to the extent practicable, given differences among products, on such matters as the responsibilities of clinical investigators, sponsors for the monitoring of clinical investigations, and institutional review committees. The task force efforts produced the proposed good laboratory practice regulations for nonclinical laboratory studies, published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51206), the proposed regulations on obligations of sponsors and monitors of clinical investigations mentioned above, and the proposed regulations on obligations of clinical investigators, which will be published in the FEDERAL REGISTER in the near future. These three proposals will apply to investigations of devices.

Because the investigational device proposal, with modifications, is being issued as a tentative final regulation rather than as a final regulation, and because several of the comprehensive proposed regulations prepared by the task forces will be ready for publication at the same time as this tentative final regulation or shortly thereafter, the Commissioner has decided that this tentative final investigational device regulation should cover only those matters that will not be covered in the comprehensive regulations. The Commissioner believes that the subject matter and the regulatory requirements for the conduct of clinical investigations of drugs, devices, and biologics are sufficiently similar to warrant uniform agency-wide regulatory policy in most instances.

Accordingly, this tentative final regulation revises subparts A, B, C, and F, based on comments received on the proposal. Subpart H is published substantially unchanged. Agency action on the remainder of the proposal, i.e., subparts D, E, and portions of subpart C dealing with responsibilities of sponsors for monitoring, are not addressed in this document and will be superseded by later final agency-wide regulations. Comments received on these matters are being considered by the FDA task forces in preparing the proposed comprehensive regulations. Any such proposed comprehensive regulations will, to the extent practicable, be incorporated into proposed part 812, directly or by reference, in future FEDERAL REGISTER notices. If it is necessary to deal with unique situations concerning device investigations only, the Commissioner will publish differing or additional proposed and final regulations on these matters.

In the interim, Subparts C, D, and E of the August 20, 1976 proposal governing the responsibilities of sponsors for monitoring studies, institutional review committees, and investigators, may be used as guidelines by persons filing applications for investigational device exemptions before the effective date of regulations on these subjects.

REFERENCES TO OTHER REGULATIONS AND TERMS

Where this tentative final regulation cites Part 52 (21 CFR Part 52) or sections thereof, it is referring to the proposed regulations on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977. The term "test article" in the sponsor proposal includes any "investigational device" in this tentative final regulation. The term "clinical investigation" in the sponsor proposal includes any "investigational study" in this tentative final regulation. The term "protocol" in the sponsor proposal includes any "investigational plan" in this tentative final regulation. The term "institutional review board" in the September 27, 1977 sponsor proposal and the term "institutional review committee" in this tentative final regulation are interchangeable.

Where this tentative final regulation cites Part 58 (21 CFR Part 58), it is referring to the proposed good laboratory practice regulations for nonclinical studies, published in the FEDERAL REGISTER of November 19, 1976 and originally designated as proposed Part 3e (21 CFR Part 3e). (Subchapter A was subsequently recodified and published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553); under the new numbering system, Part 3e will become final under Part 58.)

Where this tentative final regulation cites FDA regulations on the obligations of clinical investigators, it is referring to the proposal which will be published in the FEDERAL REGISTER in the near future and which will become final under Part 54 (21 CFR Part 54). Where this tentative final regulation cites FDA regulations on standards for institutional review committees or boards, it is referring to future agency regulations on this subject that will become final as Part 56 (21 CFR Part 56) and largely codify existing requirements under 21 CFR Part 312 and 45 CFR Part 46.

COMMENTS ON PROPOSAL—GENERAL

A total of 190 separate comments was received on the August 20, 1976 proposal. Of these, many were complex and quite constructive, and addressed numerous provisions of the proposal.

Many comments were received from industry, academic sources, and private practitioners, but none were received from public interest groups representing consumers and patient interests. The Commissioner hopes that these groups will comment on this tentative final regulation and will participate in the public hearing.

To obtain additional information on matters raised in the comments and to increase participation by members of the research community, FDA initiated contacts with several institutional review committees, scientists at the National Institutes of Health, the National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research, and representatives of independent researchers. Memoranda of these meetings are available for review at the office of the Hearing Clerk, Food and Drug Administration.

GENERAL PROVISIONS

SCOPE

Numerous comments were received on § 812.1 (21 CFR 812.1) of the August 20, 1976, proposal. Many expressed concern that the objective of encouraging discovery and development of devices was subordinated to the objective of protecting the public health to such a degree that development of new devices would be effectively stifled. One comment suggested adding an objective of maintaining optimum scientific freedom for investigators. The Commissioner believes that changes made in the other sections of this tentative final regulation in response to comments preserve in proper balance the goal of encouraging the discovery and development of useful devices and the goal of protecting the rights of human subjects. Thus, no change was made in the statement of the scope of the regulation as originally proposed.

Because the Commissioner believes that sponsors will always request an exemption from all provisions of the act, he has deleted language in § 812.1(c)(2) of the August 20, 1976 proposal which stated that the device will not be exempted unless the sponsor requests the exemption specifically. The device will now be exempt from the requirements of the act enumerated in proposed § 812.1(c) unless the Commissioner indicates that the device is not exempt from specific provisions of the act in his order of approval or disapproval under proposed § 812.30 (21 CFR 812.30).

APPLICABILITY

Proposed § 812.2(a)(1) (21 CFR 812.2(a)(1)) provides that the regula-

tions are applicable to any investigational device when used in an investigational study involving human subjects to determine whether the device is safe or effective (unless the device is excluded by the provisions of § 812.2 (b) or (d)). Proposed § 812.2(a)(2) provides that the regulations apply to any investigational study if the purpose of the investigational study is to develop data for premarket approval under section 515 of the act (21 U.S.C. 360e), to conduct research that involves a human subject, or to aid in the diagnosis or treatment of any human subject.

Proposed § 812.2(b) describes studies and devices that are not subject to investigational controls by these regulations. Although certain devices may be excluded from the controls applicable to investigational devices, they may be subject to other statutory or regulatory requirements. For example, they may be subject to a premarket approval requirement, or may be required to be manufactured in accordance with good manufacturing practice regulations, or tested in accordance with good laboratory practice regulations during preclinical testing.

Proposed § 812.2(b)(1) provides that the regulation does not apply to a device used in an experiment, if it is used in a manner and for a purpose included in its labeling (where the labeling is prescribed under the act or approved under the premarket approval provisions of the act).

Proposed § 812.2(b)(2) provides that proposed Part 812 does not apply to test marketing of a device where the only "test" involved is that of determining consumer preference on matters not related to device safety or effectiveness. This provision was added in response to comments that, as originally proposed, § 812.2 would include test marketing. The Commissioner cautions, however, that when consumer preference testing is coupled with testing designed to test the safety and effectiveness of the device, that portion of the study that relates to safety and effectiveness is subject to regulation under proposed § 812.2(a)(1).

Proposed § 812.2(b)(3) provides that Part 812 does not apply to modifications of devices that are made for purposes other than testing their safety and effectiveness. FDA received an oral inquiry asking whether an investigational device exemption will be required when a qualified anesthesiologist modifies a commercially available anesthesiolgy device, in the hospital, to meet the special needs of patients or to ensure the device's proper functioning. For example, the anesthesiologist may need to substitute a smaller breathing circuit for pediatric use, or to lengthen or shorten the device's tubing for convenience depending on the configuration of the operating room. The Commissioner recognizes that some such modifications may not meet all the requirements for exemption from Part 812 under the custom device provisions in proposed § 812.2(d); for example, the anesthesiology device as modified may be used by a number of physicians or for a number of patients. Under proposed § 812.2(b)(3), however, no investigational device exemption is required for an anesthesiologist to adjust an anesthesiology device in the hospital to ensure proper functioning under the particular circumstances of use, where the adjustment does not involve a test of the safety or effectiveness of the adjusted device.

Proposed § 812.2(b)(4) provides that Part 812 does not apply to a simple joining of devices together to form a new device unless the purpose of joining the devices is to investigate the safety and effectiveness of the resulting device. An example of such a joining of devices would be attaching a computer to an electrocardiogram for the rapid comparison of charts. The same results could be obtained by using each device separately. The devices would be joined as a matter of convenience rather than to test a new operation.

Proposed § 812.2(b)(5) exempts certain diagnostic devices from Part 812. The earlier proposal contained no such exemption but invited comments on the issue. The Commissioner received numerous comments objecting to provisions that would apply investigational requirements to in vitro diagnostic products when such products are not used for diagnostic purposes (or, if used for diagnosis, are used in parallel with an approved diagnostic product).

Where use of the in vitro diagnostic product does not involve taking an extra sample but involves merely a surplus sample remaining from a previously obtained one, the risk that concerned the Commissioner, as expressed in the proposal, was that larger than normal samples might be taken for the purpose of obtaining surplus materials with which to conduct experiments. Several comments argued that although taking extra samples is an unusual procedure, it is often good medical practice to take a large enough sample to provide a surplus, to avoid additional invasive procedures should additional testing be necessary. If no additional tests must be performed, the remainder is "surplus."

The Commissioner believes that in vitro diagnostic products employing surplus samples should not be subject to regulation under this proposal, except in those cases where samples are taken for experimental purposes, or where the procedure of taking a sample presents a substantial risk to subjects, or where an in vitro diagnostic product is used in diagnosis without the parallel use of an approved diagnostic product to verify the diagnosis. Accordingly, in vitro diagnostic products are excluded from regulation under Part 812 by proposed § 812.2(b)(5) when they are not invasive, do not introduce energy into the subject, and are not used in the diagnosis of the subject without confirmation by use of a similar approved diagnostic product or procedure of established effectiveness. (However, such devices continue to be subject to applicable requirements under the regulations on labeling of in vitro diagnostic products, 21 CFR 809.10(c).) A device is not "invasive" in the context of proposed § 812.2(b)(5) if the procedure used to obtain the sample does not penetrate or pierce the skin or mucous membranes of the body (or the urethra) or the mouth beyond the pharynx, or the anal canal beyond the rectum, or the vagina beyond the cervical os.

Proposed § 812.(b)(6) provides that Part 812 does not apply to devices intended for veterinary use. However, animal testing of devices intended for human use must comply with proposed Subpart H and proposed Part 58, the agency's proposed good laboratory practice regulations mentioned above.

Several proposals were submitted for restructuring the applicability of the regulation based on the risk presented by the investigational use of the device. While the Commissioner was unable to adopt any one of the proposals in its entirety, he agrees that applicability of the regulation should reflect the risk presented in a specific study. Accordingly, proposed Subpart B has been extensively revised to provide differing regulatory control depending on the nature of the device, (i.e., vital or nonvital investigational devices as defined in § 812.3 (q) and (r) (21 CFR 812.3 (q) and (r)), respectively) and on the degree of risk presented by the device to subjects participating in the study (i.e. substantial risk or low risk as defined in proposed § 812.3 (n) and (o) respectively).

Proposed § 812.2(c) (1) and (2) describe the applicability of the regulations to vital investigational devices and nonvital investigational devices.

All the requirements of Part 812 apply to vital investigational devices when such devices are used in studies presenting a substantial risk to subjects involved in the study. One of these requirements is that an application for an investigational device exemption be submitted to FDA under § 812.21 (21 CFR 812.21). When vital investigational devices are used in studies presenting low risk, the sponsor is required to submit to FDA only a notification under § 812.20 (21 CFR 812.20), rather than a full application

under § 812.21. Upon receipt of the notification, FDA will inform the sponsor of the date it was received; 30 days after receipt, the sponsor may commence the study unless FDA has disapproved it. If FDA waives the 30-day waiting period, the sponsor may begin the study in accordance with the terms of the waiver.

For nonvital investigational devices used in investigational studies, submission of a notification to FDA under § 812.20(a) is required, but not a full application under § 812.21. Only when a nonvital investigational device is used in a study presenting a substantial risk to subjects must the sponsor wait 30 days after the date FDA received the notification before commencing the study.

Several comments argued that devices classified as class I or class II are of necessity inherently low risk and should be exempt from IDE regulations. (The act requires all medical devices to be classified into one of three regulatory categories: class I, general controls; class II, performance standards; and class III, premarket approval.)

The Commissioner believes that certain devices, regardless of their statutory classification, may present risk to subjects because of the manner in which they are used in studies. In other instances a class III device may present little or no risk to subjects in a properly designed study with limited goals. Because the inherent nature of the device cannot be ignored in determining risk, a definition of "vital investigational device" has been added in proposed § 812.3(q) and includes (1) those devices that are intended to support or sustain life or are for surgical implantation, or are diagnostic devices (including in vitro diagnostic products) that provide data that might reasonably be regarded as life supporting or vital to the care of the subject; and (2) those devices whose failure could result in permanent injury to the subject.

The vital investigational device category is broader than the class III statutory category and may include investigational versions of class II or even class I devices. Although the classification of devices similar to the investigational device may be considered, the principal factor in determining whether a device is vital or a study presents "risk" is the possible consequences, for subjects, of its use.

The distinction between vital investigational devices and nonvital investigational devices and the distinction between substantial risk and low risk provides a means to avoid overregulation. They also permit the applicability of these regulations to be structured in a way that avoids reliance on the statutory classification of a device and focuses on the risk to the subject. This approach renders inapplicable the discussion in the originally proposed § 812.2(b) and the accompanying preamble or applicability of these regulations to devices subject to premarket approval and the discussion in the originally proposed § 812.2(c) of applicability of these regulations to devices not currently subject to a premarket approval requirement.

Under proposed § 812.20, the sponsor is responsible for an initial determination of whether a device is vital and of the degree of risk presented to subjects in the study; the sponsor's submissions to FDA are to be based on these initial determinations. The sponsor's assessment is subject to review and modification by an institutional review committee and by FDA.

The Commissioner believes that information contained in the notification required by proposed § 812.20 or the application required by proposed § 812.21 will provide sufficient information that errors in the sponsor's assessment of whether the device is vital and of the degree of risk will be corrected either by the institutional review committee participating in the review of the study or by FDA. The Commissioner agrees with comments that it is unreasonable to require a full submission for every study regardless of the degree of risk, and he has provided an abbreviated notification procedure. However, sufficient information must be supplied to the Commissioner in the notification to enable him to review and evaluate determinations of the sponsor and institutional review committee or require further data where necessary.

Proposed § 812.2(d) exempts certain custom devices from the investigational device regulations. This change responds to comments on the proposal, which had provided that custom devices would not be exempt from the regulations. The criteria for an exemption from the regulation are based in part on section 520(b) of the act, which exempts certain custom devices from performance standards issued under section 514 and premarket approval requirements imposed under section 515, but not from investigational device regulations (ref. 2, at 45). Under § 812.2(d)(1), a device is exempt from the investigational device regulations if it necessarily deviates from generally available devices to comply with the order of a health professional designated in § 812.2(d)(2); the device is not generally available in finished form for purchase or for dispensing upon prescription; the device is not offered through labeling or advertising for commercial distribution; the device is intended either for use by an individual patient named in the health professional's order and is to be made in a specific form for that patient, or to meet the special needs of the health professional in the course of the health professional's practice; and the device is not generally available to or generally used by other such health professionals. In addition to complying with these requirements based on section 520(b) of the act, the device must be made of safe and suitable materials if it is an implant, the device cannot be intended for use in an investigational study for the purpose of determining whether it is safe or effective, and the device cannot have been the subject of an administrative determination by the Commissioner that the device is subject to Part 812. These additional controls are authorized under section 520(g) of the act as requirements necessary for the protection of the public and under section 701(a) of the act as a regulation for the efficient enforcement of the act.

The proposed custom device exemption in 21 CFR 52.15(b)(2) of the proposed regulations on obligations of sponsors and monitors, published in the FEDERAL REGISTER of September 27, 1977, will be revised to conform to the custom device exemption promulgated in the final regulation resulting from this proposal.

Proposed § 812.2(d)(2) designates the health professionals authorized to use custom devices in accordance with the regulation: physicians and dentists. Other specially qualified persons may be authorized to use custom devices by future regulations published in the FEDERAL REGISTER after opportunity for an oral hearing before the Commissioner under 21 CFR Part 15, i.e., a public legislative type of hearing.

The term "custom device" has been subject to varying usages within FDA, among its advisory committee members, and among interested health professionals and manufacturers. Similarly, there have been varying interpretations both of the statutory exemption of custom devices from standards and premarket approval requirements and of the effect of the proposed investigational device regulations on practices of manufacturers and practitioners to supply devices that meet unique individual needs.

Accordingly, the Commissioner is providing in proposed § 812.2(d)(3) several examples of situations in which devices that may be regarded as custom products would, or would not, be subject to the investigational device regulations. These examples should reduce misunderstanding of the custom device exemption, promote compliance with the investigational device regulations where no exemption is provided, and address valid concerns of commenters that it is inappropriate to subject all custom devices to investigational device controls.

DEFINITIONS

The Commissioner received numerous comments on the definitions con-

tained in the originally proposed § 812.3. Many comments objected that the proposed definitions lacked clarity, were circular, or did not provide information necessary to an applicant to understand the proposed regulation. Many proposed definitions were submitted that would have changed the effect of the applicability section (proposed § 812.2) in various ways. The Commissioner has revised many of the definitions appearing in § 812.3, added new definitions to accord with the changes made in proposed § 812.2 relating to applicability, and arranged them in alphabetical order (except that the definition of "nonvital device" follows the definition of "vital device" and the definition of "low risk" follows the definition of "substantial risk").

Several comments requested a better definition of "investigational device." Although the Commissioner believes that there will always be doubts in particular cases, the best guideline to follow is that a device is investigational when used in a study for determining whether the device is safe or effective for a particular use. Thus, a modified device that is being tested to determine the effectiveness or safety of the modification would be an investigational device. Because the definition of investigational device focuses strictly on the manner in which the device is being used, i.e., whether it is being tested for safety and effectiveness (including use of a device whose safety and effectiveness have not been established), the Commissioner has concluded that any distinction between "old" and "new" devices does not describe when the investigational device regulations would apply.

The Commissioner believes that the new definition of "investigational device" resolves most of the problems identified by the comments.

Additionally, some comments recommended that the definition of "medical device" be restricted to devices intended for therapeutic or diagnostic use involving living human subjects, as a means of removing in vitro diagnostic products from the scope of the regulation. The Commissioner notes that the term "device" is defined by statute (section 201(h) of the act) and thus cannot be amended administratively. He believes, however, that exclusion of most in vitro diagnostic products from coverage under § 812.2(b)(5) is responsive to these comments.

Proposed § 812.3(f) (21 CFR 812.3(f)) revises the definition of "investigational plan", which means a plan or protocol for using an investigational device in an investigational study, where the plan or protocol meets the requirements of proposed § 812.25 (21 CFR 812.25). Comments objected that the proposed regulations reversed the sense in which the terms "investigational plan" and "investigational study" are used in industry. Although the comments suggested that the terms be revised to reflect industry terminology, the Commissioner believes that such revision would be more confusing than the regulation as originally proposed.

Proposed § 812.3(g) revises the definition of "investigational study" to mean a study involving human subjects that is for the purpose of determining whether a device is safe or effective.

The Commissioner recognizes that the manufacturer of an old class III device may wish to gather information on clinical experience with the device for future submission to FDA after expiration of the grace period in section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) or other purposes. (An old class III device is a device that either was in commercial distribution before the enactment of the Amendments, or is substantially equivalent to a device that was in commercial distribution before the Amendments, and that is placed in the premarket approval category, class III, by an FDA regulation under section 513(d) of the act (21 U.S.C. 360c(d)).) The Commissioner does not consider it an investigational study when the manufacturer of an old class III device distributes the device lawfully and requests some or all users to provide information on clinical experience with the device as used in its usual manner for "old" uses (commercial uses of the device, or of a substantially equivalent device, that predate the Amendments).

Proposed § 812.3(h) defines "investigator" as an individual who actually conducts an investigational study, i.e., under whose immediate direction the device is administered or dispensed to or used involving a subject. A corporation can never be an investigator. An investigator may be assisted in an investigation by other qualified investigators under his or her supervision, provided such individuals are identified as investigators in the application or notification submitted in accordance with Subpart B to obtain an investigational device exemption.

Proposed § 812.3(i) defines the term "monitor" to mean, when used as a noun, an individual selected by a sponsor or contract research organization to oversee the progress of a clinical investigation. Such a person may be a full-time employee of the sponsor or contract research organization or a consultant. When used as a verb, "monitor" means the act or reviewing the progress of a clinical investigation.

The definition of "sponsor" found in proposed § 812.3(k) is revised to eliminate the concept of financial support as a characteristic of the sponsor relationship. This change was made in response to comments that government agencies sponsoring research by means of grants would not in all instances wish to become sponsors within the meaning of the proposed regulation. Accordingly, language in the original proposal, which made a person who supported a study by financial or other resources a sponsor, was eliminated, and language was added to provide that a sponsor is any person who initiates an investigation but does not actually conduct the investigation. This change of language does not change the requirement that someone must assume the responsibilities of a sponsor in an application. However, the Commissioner is not requiring any particular person to assume these responsibilities. Thus, a government agency that supports an investigational device study by means of a grant, or a private foundation that funds such a study, would not necessarily be a sponsor unless it identified itself as such by submitting the notification or application for an investigational device exemption. However, the recipient of the grant or someone else must assume the responsibilities of a sponsor and submit an application for an exemption or notification.

The definitions of "investigator", "sponsor", and "sponsor-investigator" were modified to conform to definitions that will appear in other agency documents, e.g., "investigator" and "sponsor-investigator" are defined to refer only to a living individual. The definition of "sponsor" contemplates that the employees of a corporate sponsor may be considered investigators, not sponsor-investigators, when they undertake clinical investigations for the sponsor.

One comment noted that the term "institution" should not include a manufacturer because the manufacturer might be required to institute an in-house institutional review committee. The Commissioner believes that it is inappropriate to remove the term "manufacturer" from the definition in proposed § 812.3(b). However, he points out that a manufacturer of a device need not have an in-house institutional review committee unless a study using the manufacturer's employees as the subjects is being conducted.

Another comment suggested that "human subject" be redefined so that a human user of a device would not be a subject unless the investigational device placed the user at risk. Proposed § 812.3(m) does not change the definition of "subject." The Commissioner believes that introducing the concept of risk into the definition of "subject" would provide an opportunity to evade the regulation. The essence of being a subject is that the individual, whether healthy, sick, or at risk, is used in research.

A definition of "institutional review committee" appears in proposed

§ 812.3(d). An institutional review committee is any board or committee or other formally organized group appointed for the purpose of reviewing, in accordance with current professional standards, clinical investigations or other research involving humans as subjects. Protection of human subjects is accomplished by reviewing, approving, suspending, or terminating an investigation when necessary for the protection of human subjects. By "current professional standards," the Commissioner means the standards in effect in the medical profession at any given time, and would include the Helsinki Convention, the American Medical Association standards, Department of Health, Education, and Welfare regulations and guidelines, and such other standards as may emerge over time, either nationally or locally. The term is not intended to freeze professional standards. As professional standards change, it is expected that standards applied by the committee will reflect changes in medical community ethics. The committee also must provide human protection in accordance with the requirements of Part 812. Finally, an institutional review committee is synonymous with an institutional review board.

Proposed § 812.3(q) adds a definition of "vital investigational device" as a medical device intended to support or sustain life or intended for surgical implant into the body or as a diagnostic device (including any in vitro diagnostic product) used to provide data that might reasonable be considered life-supporting or vital to the care of the subject, or as a device whose failure could result in permanent injury to the user.

Several aspects of this definition are significant. First, specifically included are certain in vitro diagnostic products and other diagnostic devices that provide information that could be vital to patient care or are life-supporting in nature. Thus, the definition specifically covers devices that provide significant diagnostic information about a patient which, if misleading or inaccurate, could result in significant misdiagnosis of the patient or incorrect therapeutic care of the patient.

Second, the definition of "vital investigational device" is similar to the definition of "critical device" in the proposed good manufacturing practice (GMP) regulations for the manufacture, packing, storage, and installation of medical devices, published in the FEDERAL REGISTER of March 1, 1977 (42 FR 11998). However, the classes of products subject to the definition will vary. Also, the definition of "critical device" in the proposed GMP regulations makes no explicit reference to in vitro diagnostic products, but would include these products because they are within the definition of "device" in section 201(h) of the act. Nonetheless, because the commissioneer believes that investigational controls might be construed as not applying to certain in vitro diagnostic products and other diagnostic devices unless specific language were added including such devices, appropriate language has been added to proposed § 812.3(q). However, a number of in vitro products are exempt from the investigational controls, but will be considered critical devices for GMP purposes. Applying GMP's but not investigational controls to certain devices is consistent because, if manufactured properly, certain devices may present no substantial risk of being either unsafe or ineffective when used in investigational studies. The Commissioner has omitted language in the definition of "critical device" found in the GMP proposal which provides that a critical device is a device declared by the Commissioner to be a critical device after consultation with the Device Good Manufacturing Practice Advisory Committee. This language is omitted because it is inappropriate in these regulations. As with the GMP regulations, the Commissioner is considering publishing a list of devices that FDA regards as vital investigational devices.

Third, the mere fact that a device is vital does not result in an automatic assignment of a particular risk category, although it is treated differently from a nonvital investigational device.

"Nonvital investigational device" is defined in § 812.3(r) as all those devices that are not vital devices; in short, all other devices. By dividing devices into these two general categories, it is possible to apply the regulatory controls in such a manner as to minimize the regulation of those devices that are nonvital and present low risk.

Several comments suggested limiting the scope of the regulations to studies that place subjects "at risk." Suggestions were made that FDA use the definition of "at risk" found in 45 CFR 46.103, Department of Health, Education, and Welfare Guidelines, Protection of Human Subjects. The Commissioner believes that the broad definition contained in 45 CFR 46.103 of the term "at risk" would not be helpful in restructuring the proposed regulation because the breadth of the definition of "at risk" would subject practically every investigational study to full investigational controls. The Commissioner believes that definitions of "risk" in this proposed regulation must differentiate between low and substantial risk situations. Accordingly, the Commissioner has added a definition of "substantial risk"; in proposed § 812.3(n) as a risk that may result in death or may produce morbidity (including disfigurement, permanent injury, or interference with the capacity to continue employment); require operation or reoperation or extension of hospitalization beyond that expected for the condition being treated, or cause rehospitalization or increased invalidism; or, at the least, produce moderate personal discomfort and the need for extensive outpatient medical care. This definition identifies a range of risks from moderate to high that may threaten subjects. If, as a possible consequence of the study, any of the conditions set forth in the definition could occur, the study must be categorized as substantial risk. On the other hand, where none of the conditions set forth in the definition of substantial risk are likely foreseeable consequences of the study, the study will fall into the low risk category explained below.

The Commissioner received a comment from the National Institutes of Health that the probability of the risk actually occurring should be considered in the definition of "risk." He has not included this factor in the definition of risk because he believes that for many studies data are simply lacking on which to base such a judgment. The Commissioner agrees that where probability data are available, the likelihood of an event's occurrence may be a basis for assigning it to a higher or lower risk category, e.g., a risk may be evaluated in terms of whether it is certain, frequent, infrequent, or rare; and such a determination may enter into the determination of whether to treat the risk presented by the study as substantial or low. The assessment of risk is designed in part to determine how much information must be submitted to FDA (e.g., a notification or an application) as well as for the purpose of determining whether the study should be initiated or continued. The definitions of "substantial risk" and "low risk" look to the likely foreseeable consequences of a study, including the additional risk to which the subject may be exposed because of the use of the investigational device. The definition of "low risk" in proposed § 812.3(o) provides that any risk other than a substantial risk is a low risk, including a situation in which there is no risk of injury to the subject or to his or her rights.

In proposed § 812.3(p), "transitional period" is redefined in response to comments to apply only to those devices (1) which either were on the market prior to May 28, 1976 or are judged by FDA to be substantially equivalent to a device marketed prior to that date, and (2) which are classified in the class III category. The transitional period is defined as extending from May 28, 1976 to either (1) 30 calendar months after the device is classified as a class III device, or (2) 90 days after a regulation requiring the submission of a premarket approval application is promulgated, whichever occurs later.

The Commissioner received one comment suggesting that the term "substantially equivalent" as it is used in § 812.3(p) be defined. The Commissioner believes, however, that the term cannot be better described at this time. A determination that a device is substantially equivalent is judgmental, and while reasons may appropriately be given for any particular decision so classifying a device, the terminology itself cannot be better defined except with synonyms which will provide little, if any, additional clarification. Accordingly, no definition is offered for this term. The Commissioner believes it may be possible to define the term at a later date as experience develops in determining substantial equivalency. The term is evolving into a term of art. The preambles to the proposed and final Device Establishment and Premarket Notification regulation published in the FEDERAL REGISTER of September 3, 1976 (41 FR 37458) and August 23, 1977 (42 FR 42520), contain useful guidance in interpreting this phrase.

GENERAL QUALIFICATIONS FOR AN EXEMPTION

Proposed § 812.5 (21 CFR 812.5) received only one significant comment, which stated that the proposed labeling requirements conflict with those in 21 CFR 809.10(c) for investigational in vitro diagnostic products. The Commissioner agrees and has changed the originally proposed § 812.5 to provide the option of using one of the statements prescribed in § 809.10(c) rather than the statement prescribed in § 812.5. The Commissioner notes that most in vitro diagnostic products are to be exempted from Part 812, so only some such products will have to comply with Part 812 as well as Part 809.

Proposed § 812.5(b) now includes provisions, formerly in § 812.47(a), that the labeling of an investigational device shall not represent that the safety and effectiveness of the device has been established for the purposes under investigation and shall describe relevant hazards, contraindications, adverse effects, interfering substances or devices, and precautions.

WAIVER

Proposed § 812.10 (21 CFR 812.10) elicited comments suggesting that the Commissioner be required to act on a petition for waiver in the same 30-day period in which he is required to act on the application for exemption. One comment argued that the petition for waiver should be incorporated into the application for investigational device exemption thereby requiring the Commissioner to respond within 30 days.

The Commissioner believes that by restructuring the applicability of the proposed regulation in terms of risk, and excluding from the applicability of the proposed regulation many in vitro diagnostic products and custom devices, he has reduced the need for waiver petitions. The Commissioner does not intend to delay action on a petition for waiver. However, he does not believe that in extending this privilege of requesting a waiver, which is not required by statute, he must be governed by the same 30-day response period prescribed for action on an application for an investigational device exemption. Such a time limitation in which to respond to waiver petitions may not be realistic if waiver is requested for many requirements or a major category of testing, because the evaluation of the petition may require extended discussion and review. The Commissioner assures all interested parties that petitions for waiver will be acted upon as soon as practicable, within 30 days in many cases, and that there is no intent to delay action on a petition for a waiver any longer than is necessary to evaluate it.

Another comment was that by fulfilling requirements imposed by other government agencies under a grant or contract, the petitioner should receive an automatic waiver of investigational device requirements.

The Commissioner believes that although fulfillment of requirements imposed by another agency would certainly be a major factor in determining whether to grant a petition for waiver of certain requirements, FDA's decision depends on whether the requirements imposed by the other agency sufficiently protect the public health and safety to permit the granting of the petition for waiver. The Commissioner notes that it is not the practice to waive compliance for investigational drug requirements even though a study is conducted under a grant from another government agency.

Two additional significant comments were received on proposed § 812.10. One suggested the compilation of a list of exempt products to reduce requests for waiver. The Commissioner believes that it is impossible at this time to exempt products in advance from the requirements of the proposed regulation because a product, regardless of the degree of risk associated with it in its approved use, may when used in an investigational study generate far higher degrees of risk. Additionally, the differences between individual products within a class are so great that the compilation of a list of exempt products is not feasible at this time.

A final comment suggested that any final regulation should make clear that confidential information contained in a petition for waiver would be protected from public disclosure.

The Commissioner responds that information contained in a petition for waiver is subject to the same protection as any information contained in an application for exemption as prescribed by proposed § 812.21 (21 CFR 812.21) and is disclosable to the public upon request according to the same rules that define when information contained in an application for exemption can be disclosed, i.e., proposed § 812.38.

INFORMATION PREVIOUSLY SUBMITTED

Proposed § 812.12 (21 CFR 812.12) provides that previously submitted data may be incorporated by reference in any subsequent submission. Proposed § 812.12 received no significant comment and remains unchanged.

REQUIREMENTS APPLICABLE TO EXPORTERS OF DEVICES

Proposed § 812.19 (21 CFR 812.19) received a number of negative comments. However, one comment supported FDA's position in attempting to protect other countries from the export of devices that would not be subject to adequate controls in the country of import since such a position is necessary to further the foreign policy interests of the United States.

Comments argued that the policy enunciated in proposed § 812.19 was unwise, unlawful, and unconstitutional. One comment argued that the provision requiring the exporter to obtain the foreign government's approval is probably unconstitutional because no clause in the Constitution supports a Federal police power protecting a foreign citizen. Additionally, the United States has no power or authority to "legislate for the health of the world." Other comments noted that proposed § 812.19(b)(2) (i) and (ii) afford protection to foreign citizens beyond that intended by the legislation. These comments suggested that exporters should have to comply only with the law of the foreign government receiving the exported product. Other comments stated that the export requirements should be satisfied where there is an approved application if the country to which the device is exported is willing to accept the device. Submission by the manufacturer of proof from the importing country of willingness to permit import of the device should satisfy FDA where there exists an approved investigational device exemption.

The Commissioner received several comments suggesting that many countries lack agencies or officials charged with regulating investigational devices. The fear was expressed that it would be impossible to comply with the requirements of this section when there is no available foreign official to certify approval of the device. Further, even where such a foreign official exists, there may be no administrative apparatus within the foreign country

for controlling the device after import. Several comments argued that because such situation may be anticipated to exist, FDA must be satisfied with a notification from the sponsor-exporter of an intent to ship; in which case, after a stated time elapsed during which neither an approval nor denial was received from the foreign government, the exporter would be free to ship upon verifying the notification and certifying to FDA that the device complies with the law of the foreign country to which export is proposed. Other comments suggested that any limitations on exports should be confined to the health and safety of the United States.

The Commissioner believes that proposed § 812.19 closely parallels section 801(d) of the act (21 U.S.C. 381(d)) as amended and accurately reflects Congressional intent. The Commissioner believes that section 801(d) of the act is a constitutional exercise of Congress' plenary power to regulate imports and exports, by prescribing the conditions under which products manufactured in the United States may be exported. Any impact that section 801(d) and the proposed regulations would have on the conduct of foreign nationals is incidental to these legitimate product export controls. The Commissioner points out that export controls apply not only to investigational devices but also to investigational new drugs. Furthermore, the application of export controls to exported investigational devices serves U.S. interests by making it less attractive for firms to try to avoid the requirements of section 520(g) of the act (21 U.S.C. 352(g)) by conducting studies of investigational devices in foreign countries lacking similar requirements; reducing the unfair advantage that would accrue to such firms; and helping to ensure that data offered to FDA in support of device premarket approval applications were developed under conditions in which human subjects were protected and that ensure the collection of valid scientific data.

The Commissioner has concluded that Congress intended for FDA to consider the effects of exportation of an investigational device on the public health and safety of the receiving country, when he makes the determination required by section 801(d)(2) of the act (21 U.S.C. 381(d)(2)), "* * * that the exportation of the device is not contrary to public health and safety and has the approval of the country to which it is intended for export." He believes that it is constitutional for Congress to require FDA to consider effects of American exports on receiving countries, as a constitutional exercise of Congress' authority to control exports. In addition, the requirement is similar to the general duty of nations under international law to refrain from causing avoidable harm to other nations. For these reasons, in administering § 812.19, the Commissioner may in some cases decide that the mere existence of an investigational device exemption for domestic studies is not sufficient by itself to warrant the export of the device unless the Commissioner is assured that there is satisfactory provision within the importing country to control the device after import. In some instances, previously exported products are later imported into the United States.

The Commissioner has revised proposed § 812.19 to parallel the statute more closely. The statute requires that before export of an unapproved device that is currently subject to a performance standard, premarket approval requirement, investigational device exemption, or banned device regulation, FDA must determine that the exportation of the device is not contrary to the public health and safety and has the foreign government's approval.

The Commissioner prefers that the importing country have sufficient regulatory controls and organizational apparatus to ensure that the device is investigated under conditions equivalent to those under which it is being investigated or could be investigated within the United States. Although the revision of proposed § 812.19 does not require the exporter of an investigational device to obtain an investigational device exemption before export in every case, the Commissioner reserves the fight to refuse to permit the export of the device under section 801(d) of the act if he believes that the conditions under which the device will be tested in the importing country are such that the device would not be subject to adequate control

The Commissioner recognizes that in dealing with foreign governments, unique and unusual situations may occur, e.g., it may be difficult to determine which foreign government agency should approve importation of the device. Rather than rewrite the requirements of this regulation in terms of the unusual, the Commissioner prefers to deal with unusual situations as they are presented, on a case by case basis. If an exporter discovers that there is no foreign official who can grant clearance to the proposed import of the device, the manufacturer, or exporter, or sponsor should request a waiver. The Commissioner will respond to such situations as he deems appropriate after investigating the facts and, where necessary, in consultation with the Department of State or other Federal agencies.

The Commissioner rejects the suggested procedure for an exporter to be able to export the device after a given period of time had elapsed and to certify that he was in compliance with foreign law. The Commissioner does not believe that such a procedure complies with section 801(d) of the act.

Notification and Application

The Commissioner received numerous comments relating to the application form, many requesting a simplified notification procedure.

Notification

The Commissioner agrees with comments that a simplified notification procedure is appropriate for many studies. Accordingly, proposed § 812.20 (21 CFR 812.20) has been revised to provide for an abbreviated application, called a notification, where a vital investigational device is to be used in a low risk investigational study or when a nonvital investigational device is to be used in an investigational study. The notification consists of the name and address of the sponsor, the signature of the sponsor or the sponsor's authorized representative, the name and description of the device, a summary of the investigational plan, the location(s) of the study, the sponsor's agreement to comply with FDA regulations and monitoring procedures, the institutional review committee's approval of the study and agreement to comply with FDA regulations on institutional review committees (future Part 56), a summary of the investigational study, the institutional review committee's assessment of whether the device is vital or nonvital and the risk presented by the study, and the name of the investigators and each investigator's agreement to comply with FDA regulations regarding the obligations of clinical investigators (including Subpart F and future Part 54).

The Commissioner emphasizes that the institutional review committee must specifically assess the risk to which the study exposes human subjects; and that the committee's approval, its determination whether a device is vital and its risk assessment, signed by the chairman, must be contained in, or attached to, the notification. Only if the committee assesses the risk presented by a vital investigational device to be low will the notification be accepted by FDA. The Commissioner cautions that the determination as to whether a device is vital and as to risk assessment by both the sponsor and the committee are subject to review and reversal by FDA. In the event that FDA determines that an application is needed and not a notification, the sponsor will be notified to postpone or suspend the study and submit an application containing the information required by § 812.21 (21 CFR 812.21).

Proposed § 812.20(a)(2) provides that three completed copies of the notification, together with all accompanying materials, should be sent by registered

mail or hand delivered to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910. The outside wrapper must be appropriately labeled "Notification of Intent to Commence Testing an Investigational Device."

A sponsor who wishes to do so may always submit an application under proposed § 812.21, even though the study may qualify for the submission of a notification.

The Commissioner believes that this provision will simplify procedures for obtaining an exemption and that it is justified by the low risk associated with the studies eligible for the proposed notification procedure.

Additionally, the procedure for filing an application or notification was revised to permit hand delivery.

APPLICATIONS FOR EXEMPTION

Formerly proposed § 812.20, dealing with the contents of an application for an investigational device exemption, is renumbered § 812.21. Proposed § 812.21(b)(1), as revised, permits a description of the important components of the device in lieu of a complete statement of the components of the device. Any anticipated changes in the components of the device must be identified in the application.

All information furnished must be in sufficient detail that a scientist or physician familiar with the general type of device, by not necessarily expert with regard to the specific device, can make a knowledgeable judgment as to the anticipated safety or effectiveness of the device in the study. This change complements the change from "complete" to "important components"; the information provided must be sufficient so that a qualified person need not be an expert with respect to the specific device to make a knowledgeable judgment regarding the safety and effectiveness of the device in the proposed study.

Similarly, proposed § 812.21(b)(3) is modified to delete the requirement of including a complete statement of methods, facilities, and controls used in the manufacture, processing, packaging, and storage of the device. The Commissioner is requiring instead a description of those methods, facilities, and controls used for the manufacture, processing, packaging, and storage in enough detail that a person informed in that general area can make a knowledgeable judgment about the anticipated safety and effectiveness of the device in the proposed study.

The requirement in formerly proposed § 812.21(b)(4) that the sponsor list those sections of the act from which exemption is sought has been deleted because it is unlikely that a sponsor will seek less than a complete exemption from all statutory requirements for which an exemption can be requested.

Proposed § 812.21(b)(4) directs the sponsor to state the location of every institutional review committee that will monitor any portion of the study and state each such committee has received a copy of the investigational plan and report or prior investigations, together with all other materials required by the committee (such as separate protocols not described in the plan). Generally, the investigator rather than the sponsor would provide this and other information to the institutional review committee and otherwise deal with the committee; the investigator would inform the sponsor of his or her actions and those of the committee.

A copy of the plan, report, and other information required by any institutional review committee must also be submitted to FDA. The Commissioner has determined that it is necessary for the protection of the public health and safety for the Commissioner to have a copy of the full investigational plan to decide whether testing should commence, even where there has been review by an institutional review committee. The Commissioner points out that a summary of the plan is, however, adequate in a notification under proposed § 812.20 (unless the Commissioner requests a copy of the full plan after receiving a notification that contains only a summary).

The Commissioner cautions that although FDA will consider an application which requests waiver of the institutional review requirement of proposed § 812.42, the application will be evaluated on a basis different from that used when an institutional review committee has approved and will review the study. The Commissioner may disapprove an otherwise adequate application if the absence of a committee to monitor the study may expose subjects to undue risks.

Proposed § 812.21(b)(5) as revised requires only the committee chairman, rather than each member of the committee, to sign a statement that the committee has reviewed and approved the plan and report of prior investigations. The Commissioner agrees with the comments that the requirement for all members of the committee to sign, taken together with the quorum requirements, could have effectively given a minority member a veto over the project.

An objection was made to the use of the term "supervise" when referring to committee functions with respect to its review of the study. The Commissioner agrees that it is more appropriate for the committee to protect human subjects by reviewing reports of unexpected adverse effects, by periodic monitoring, and by determining whether the study should be continued rather than by supervising the study.

Proposed § 812.21(b)(6) was revised in response to a comment that the sponsor should submit all forms and informational material to be given to human subjects, including all forms to be used to obtain informed consent as required by Subpart F. Copies may be appended to the investigational plan.

One comment proposed that language be added stipulating that the sole purpose of requiring submission of all informed consent forms to be used in the study is to assure compliance with the informed consent requirements in proposed §§ 812.120 and 812.130 (21 CFR 812.120 and 812.130). The comment argued that no single type of informed consent should be mandatory and that each investigator should be responsible for obtaining the consent form best suited to the investigator's needs which complies with the regulation. The comment explained that the purpose of the suggested change is to clarify that no responsibility is assumed by FDA or the sponsor for professional liability where informed consent forms must be changed to comply with the regulations.

The Commissioner is not adopting this suggestion. the original proposal did not contain inflexible provisions as to the type of informed consent required, and none are required in this revision. The Commissioner expresses no opinion on the professional liability of sponsors or investigators where changes must be made in consent forms to meet FDA requirements.

Proposed § 812.21(b)(7) requires the sponsor to submit a copy of the investigator's curriculum vitae together with the investigator's agreement (as required) to comply with regulations regarding obligations of investigators. Copies of agreements signed by each investigator participating in the study shall be submitted.

Proposed § 812.21(b)(8) provides that the sponsor must submit (1) a copy of all informational material, including labels, to be supplied to investigators under § 812.47(a); (2) a description of the scientific training and experience the sponsor considers appropriate to qualify an individual as suitable to investigate the device; (3) the sponsor's written precedures for monitoring the investigational study in compliance with 21 CFR Part 52 (the proposed regulations on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977); and (4) the name and a summary of the training and experience of the individual who is to monitor the study for the sponsor.

Proposed § 812.21(b)(9) provides that the sponsor shall state, to the best of the sponsor's knowledge, whether an

institutional review committee has ever disapproved or terminated any investigational study of the device and the reasons for such action.

A comment objected that this provision is irrelevant to determining whether the present application should be approved. The Commissioner believes that such information is relevant and, if not stated in the application, might give rise to further questions at a later stage in the proceeding. Should the study be suspended or terminated after it has begun because of questions relating to a previous institutional review committee disapproval, a sponsor might lose considerable investment and valuable scientific data might be lost. For this reason, the Commissioner believes that full disclosure in the application serves the best interests of all concerned. The Commissioner believes that a prior refusal by an institutional review committee to approve the study would not necessarily prejudice the present application unless the prior disapproval disclosed grounds which would justify disapproving the present study.

Proposed § 812.21(b)(10) requires the sponsor to state that the sponsor will comply with all the requirements applicable to sponsors under this chapter. This agreement includes the specific provisions of Subpart C and proposed Part 52 on the responsibilities of sponsors and monitors in clinical investigations.

Proposed § 812.21(b)(11) required the sponsor to notify FDA if the sponsor intends to charge investigators or subjects for the device.

The Commissioner believes that while it may be appropriate for sponsors in certain instances to charge for the device, the Commissioner is concerned that commercialization of the device not occur under the guise of recouping investment. Therefore, the Commissioner insists that he be notified of an intent to charge. Such notification is not to be construed as FDA approval to begin commercial distribution of the device. The Commissioner at his discretion may request additional information regarding the cost of manufacture and development in deciding whether to approve the application. However, the requirement that the sponsor justify the sponsor's decision to charge for the device has been omitted in response to comments that devices, unlike drugs, may individually be very costly to produce and that the only way a manufacturer can recoup such manufacturer's development cost is to charge for the device.

Proposed § 812.21(b)(12) requires the sponsor to state the sponsor's reasons for any request for a waiver of the requirement of § 812.30(a) that the study not begin before 30 days after FDA has received the application.

Proposed § 812.21(b)(13) permits the Commissioner at his discretion to request an environmental analysis report from the sponsor. Such a report need not be submitted on a routine basis. However, the Commissioner believes that when FDA would be required to prepare an environmental impact statement on approval of an investigational device exemption, the sponsor is in the best position to provide the information needed to prepare this statement. The Commissioner may condition his approval of the application on receipt of an accurate and adequate report. Failure to submit an adequate report, when requested, would be grounds for disapproving the application. Of course, as with other requests for information, the sponsor may refuse to provide the information and treat the request as a disapproval for purposes of requesting a regulatory hearing under Part 16 as discussed below.

Proposed § 812.21(b)(14) requires the sponsor to submit any other information relevant to the review of the application which FDA may require to be submitted. The type of information required may be obtained by making specific requests to sponsors either orally, by telephone, or in writing.

The Commissioner received comments that FDA could effectively prevent a sponsor from obtaining a hearing to review FDA administrative action simply by making repeated requests for information without ever approving or disapproving the application. The Commissioner agrees that the sponsor is entitled to request a hearing with respect to an application if FDA requests additional information.

Accordingly, proposed § 812.21(c) permits the sponsor to refuse to provide any information requested under proposed § 812.21(b)(14) and treat the application as disapproved for purposes of requesting a regulatory hearing under proposed § 812.30 to review the Commissioner's determination.

However, proposed § 812.21(c), as revised, also provides that if the Commissioner's request for information does not receive a response within the time stated in the request, the Commissioner will treat the application as withdrawn, and so notify the sponsor, to foreclose the possibility of a sponsor simply not responding to requests for information and arguing that such sponsor is still in technical compliance with the regulation because such sponsor's application is pending.

Other comments objected that the information that may be requested was not restricted to relevant information. The Commissioner agrees that only information related to the review of the application will be required to be submitted.

Investigational Plan

Proposed § 812.25 (21 CFR 812.25) states the requirements for an investigational plan.

Proposed § 812.25(a)(2) has been revised to delete the requirement that FDA be notified of all changes to be made in the plan, in response to comments that only foreseeable changes should be reported. Only anticipated or foreseeable changes need be cited in the investigational plan.

Proposed § 812.25(a)(11) requires the description of all important components of the device in the investigational plan. The Commissioner believes it would be illogical not to require a description of all important components of the device in the investigational plan while requiring them to be described in the application submitted to FDA, which the institutional review committee might not see.

Proposed § 812.25(d) has been added to prescribe the requirements or the contents of a summary of an investigational plan. Such requirements were not included in the original proposal. A summary of a plan would be required to include an adequate and accurate summary of each element of a plan under § 812.25(a).

Report of Prior Investigations

Proposed § 812.27 (21 CFR 812.27) sets forth the requirements for reports of prior investigations and experience with the device that must be submitted.

Proposed § 812.27(b)(1) has been revised in response to comments that the report of prior investigations should not include complete information about preclinical investigations because the requirement may be difficult or impossible to meet if the device has a long market history. The Commissioner has revised proposed § 812.27(b)(1) so that the sponsor need only provide a bibliography of publications relevant to the study, which could be fewer in number than those relevant to the particular device, and provide copies of significant publications, both adverse and supporting. By eliminating the requirement that the bibliography submitted be complete, and by requiring instead that the publications be relevant to the clinical study, the Commissioner avoids imposing a burden of exhaustive and unnecessary research. The requirement will be satisfied if the bibliography is relevant to the investigational study proposed, thereby excluding studies not bearing on the specific test to which the device is to be subjected. Insofar as possible, all relevant material submitted should be complete.

Section 812.27(b)(2) now requires that unpublished information both adverse and supporting shall be provided (if available to the sponsor) in sufficient detail so that a scientist or physician not necessarily an expert with respect to a specific device could make a knowledgeable judgment regarding its anticipated safety and effectiveness in the proposed study.

Proposed § 812.27(c) provides that prior investigations of a device shall not be considered adequate to justify clinical trials with human subjects unless the conditions of the prior investigations are comparable to the conditions of the proposed study.

Several comments indicated that it is unnecessary for FDA to know in every instance the place where the prior studies were conducted. The Commissioner agrees and proposed § 812.27(d)(2) limits the requirement to provide details on prior tests to information that is sufficiently detailed to permit scientific evaluation. Where scientific evaluation would necessitate identifying the qualifications of the person performing the test or including other precise information, such information must be submitted. Proposed § 812.27(d) also provides that, except where tests on laboratory animals would be unnecessary, e.g., where there have been adequate in vitro tests or clinical experience, prior investigations will be considered adequate only if there have been tests in animals and these tests show it is reasonably safe to begin clinical trials with humans.

Proposed § 812.27(e) provides that a summary of the same type of information concerning components or ingredients of a device (e.g., a bibliography and copies of other unpublished relevant information) must be provided as is required in proposed § 812.27(b) (1) and (2) when the components or ingredients may have a significant effect on the safety or effectiveness of the device and information concerning such components or ingredients is needed to justify investigational use of the device on human subjects.

FDA REVIEW OF AND ACTION ON AN APPLICATION

Section 812.30 (21 CFR 812.30) describes the procedure for FDA's review of applications for exemptions and prescribes criteria for acting on such applications.

Proposed § 812.30(b) was modified to permit the Commissioner, when rejecting a resubmitted application, to suggest that it be further revised and resubmitted, while authorizing the sponsor to treat the Commissioner's suggestion as a final disapproval for purposes of requesting a regulatory hearing for conformity with proposed § 812.21(c).

In response to comments, the criteria for disapproving applications in § 812.30(c) have been changed to give the Commissioner discretion to decide whether to disapprove an application (or notification), where grounds for disapproval exist. Thus, the words "shall disapprove" have been replaced by the words "may by order disapprove."

Proposed § 812.30(e) of the August 20th proposal contained criteria for assessing risks when disapproving an application. These criteria still apply but have been moved to proposed § 812.35(a)(11) (21 CFR 812.35(a)(11). To comply with section 520(h) of the act (21 U.S.C. 360j(h)), the Commissioner has added new § § 812.30(f) and 812.35(e) requiring FDA to make publicly available a detailed summary of information on which FDA bases a decision to approve an exemption from a banned device regulation, to disapprove an application, or to withdraw an exemption.

GROUNDS FOR WITHDRAWAL OF AN EXEMPTION

Proposed § 812.35 enumerates the grounds for withdrawal of an exemption.

The grounds are similar to the grounds contained in proposed § 812.35 (a) and (b) of the August 20th proposal.

Comments said that the provisions seem to show suspicion of the good faith of sponsors in the absence of any evidence that sponsors will not follow the rules. Accordingly, proposed § 812.35 deletes the provisions of formerly proposed § 812.20(b)(6) that the application might be disapproved merely because there is reason to believe the investigation would not be conducted in accordance with the investigational plan. However, in the event that evidence exists of actual failure to comply with the plan, grounds would exist as provided in § 812.35(a)(6) for withdrawing an exemption previously granted.

Proposed § 812.35(c) as revised provides that the Commissioner may, in his discretion, continue in effect an exemption for which there are grounds for withdrawal if the facts do not lead the Commissioner to conclude that the risks outweigh the benefits to subjects. Withdrawal will not occur mechanically. Failures to conform may be cured in some instances by submitting additional information or correcting procedures used in the study.

Proposed § 812.35(a)(11) provides that the Commissioner may withdraw an exemption if the Commissioner determines that the proposed investigational study subjects human subjects to undue risks.

Proposed § 812.35(a)(11) also provides that in assessing risks the Commissioner shall consider certain specified criteria. Formerly proposed § 812.30(e)(3) evoked comments objecting to the language "legally effective informed consent" as redundant since a consent that is not informed cannot be legally effective while a legally effective consent must be informed. The Commissioner believes that FDA should adopt the language of 45 CFR 46.103 (DHEW Guidelines, Protection of Human Subjects) since to delete this language might signal that the requirement differs in substance, which is not the case. This language was included in the DHEW Guidelines to make clear that the consent must comply with State laws to be "legally effective."

Proposed § 812.35(d) provides for reinstatement of the exemption if the sponsor satisfies the Commissioner that grounds for withdrawal no longer apply. Emphasis should be placed on the fact that the burden is on the sponsor to convince the Commissioner that the grounds for withdrawal no longer apply.

WITHDRAWAL OF AN INVESTIGATIONAL DEVICE EXEMPTION

The Commissioner received several comments suggesting a prehearing conference procedure prior to withdrawal of the exemption. The Commissioner believes that such a procedure is cumbersome and unduly restricts his power to take swift action to protect the public health. Experience with prehearing conferences relating to withdrawing IND's proved that the prehearing conference took on all the trappings of the hearing itself. The resulting delay from provision for a conference would not be in the public interest, particularly as the sponsor does have an opportunity for a hearing. However, in appropriate cases, informal meetings may be held in accordance with 21 CFR 10.65

One comment received on proposed § 812.35 suggested that, once the time period for evaluation of the application had elapsed, FDA could no longer reevaluate the data and withdraw the exemption. The same comment also suggested that approval of the report of prior investigations, once approved for purposes of this part, should be valid for support of any subsequent premarket approval application.

The Commissioner does not agree with this comment. The public health could be jeopardized if the sponsor had submitted false or misleading data in such sponsor's original application and if FDA, because it had failed to perceive the misstatement in its review of the application, was bound forever to its original determination and powerless to correct the mistake. All data submitted to FDA are subject to continual evaluation for the protection of the public health. The Commissioner would be remiss in his duty were he to allow himself to be bound by a prior mistake. A sponsor can be protected by ensuring that all data submitted to FDA are accurate.

For similar reasons, the Commissioner will not guarantee to sponsors that the report of prior investigations of a device submitted under part 812 will satisfy requirements for such a report in a premarket approval application. The Commissioner advises that the Commissioner is not now in a position

to know whether the reports sponsors submit under part 812 will be of adequate quality to satisfy requirements for such reports in premarket approval applications.

CONFIDENTIALITY

Proposed § 812.38 (21 CFR 812.38) prescribes the rules governing confidentiality of information contained in a notification or application for an investigational device exemption and is comparable to § 312.5 of the IND regulations.

The Commissioner has already published for comment a proposed regulation concerning FDA policy on disclosure of the existence of investigational device exemptions. This proposal was published in the FEDERAL REGISTER of March 28, 1977 (43 FR 12869), correction published in the FEDERAL REGISTER of March 31 (43 FR 13587). Under the proposal, FDA would disclose the existence of an application or notice submitted to FDA seeking permission to conduct research on, or to market, a drug or device, whether or not the application or notice had previously been publicly disclosed or acknowledged. This proposal would reverse present FDA policy. Paragraph (a) of proposed § 812.38 has been published for comment as part of the March 28, 1977, proposal as corrected and, accordingly, is not published in this tentative final regulation. Comments on the issue of disclosure of the existence of investigation device exemption should be sent by May 30, 1978, to the docket on the March 28, 1977, proposal (Docket No. 77-0248) rather than to the docket of this tentative final regulation.

The section was also changed from the original proposal to clarify that an individual is only entitled to an adverse reaction report relating to use of a device on that individual. Useful guidance concerning the interpretation of this section may be found in the preamble to the final regulations promulgating § 312.5 (21 CFR 312.5), published in the FEDERAL REGISTER of December 24, 1974 (39 FR 44602) and January 14, 1977 (42 FR 3094).

The Commissioner received a comment relating to confidentiality, urging that FDA only disclose adverse reactions to investigators directly involved, arguing that such investigators have the training and experience to make proper evaluations of such reports while patients would not be able to interpret such reports correctly and could be unnecessarily concerned about information that is not understood. The comment argued that present conditions which focus on professional liability require that confidentiality be assured to prevent misuse of documentation in a manner unfairly adverse to the investigation, the investigator, the device, and the sponsor.

The Commissioner disagrees with this comment. It is not the duty of FDA to protect sponsors or investigators from lawsuits by subjects. It is reasonable to provide subjects access to data concerning their own adverse reactions. Such disclosure enhances the automomy of the subject and provides the subject with information that permits such subject to take whatever action he or she believes is necessary in his or her own best interest. Moreover, such disclosure is required by the Freedom of Information Act and is consistent with the objectives of the Privacy Act.

Comments asked whether adverse reaction reports required under this regulation will be subject to release to the public under the Freedom of Information Act. The Commissioner advises that prior to approval of a device under section 515 of the act (21 U.S.C. 360e), reports of adverse reactions occurring during any investigational device exemption study are not available to the public except as provided in proposed § 812.38(c). Under proposed § 812.38(c), a subject is entitled to a report concerning his or her own adverse reaction regardless of whether the existence of the IDE has been publicly disclosed or acknowledged. The Commissioner further advises that adverse reaction reports concerning devices approved under section 515 of the act will be released consistent with the provisions of § 314.14(d)(4).

SUPPLEMENTAL APPLICATIONS

Proposed § 812.39 (21 CFR 812.39) describes the situations in which a supplemental application is required to update a notification submitted under proposed § 812.20 or an application submitted under proposed § 812.21 Generally speaking, proposed § 812.39 has not been significantly changed.

In response to comments, the Commissioner has revised proposed § 812.39(b) to provide that when a hazardous situation exists which necessitates the use of an investigational device, prior notification to FDA before using the device is not required.

COMMENTS RELATING TO SUBPART B WHICH REFLECT DIFFERING CONCEPTIONS OF THE ROLE OF INSTITUTIONAL REVIEW COMMITTEES

Many comments on subpart B imply a different conception of the role of the institutional review committee than that held by the Commissioner. Several comments proposed that whenever an institutional review committee participates in the review of a study, it should be unnecessary to submit the curriculum vitae of the investigator to FDA. Similarly, a comment suggested the labeling should not be submitted to FDA but rather to the institutional review committee. Another suggested that no medically trained monitor was necessary in light of monitoring by the institutional review committee. Yet another suggested that the reverse of the formerly proposed scheme found in § 812.21(b) be adopted so that only a summary of prior studies should be submitted to the institutional review committee, the full report being submitted to FDA. Comments reflecting still another view of the role of the institutional review committee argued that the committee need not indicate at the time the application is submitted whether it would review and approve the study. Other comments stated that it is unnecessary to delay approving the investigational device exemption until the committee approves it; rather the procedure should be the same as that used with the IND, which permits simultaneous submissions to the committee and FDA. Delay, it was objected, serves no useful purpose.

Other comments stated the institutional review committee alone should pass on the sufficiency of the informed consent form and that FDA should not require submission of the informed consent form with the application.

The Commissioner disagrees with these comments because the Commissioner believes they confuse the role that the act assigns the institutional review committee. The institutional review committee is intended by Congress (see section 520(g)(3)(A) of the act) to be an integral part of the review process and is intended to review both the plan and report of prior investigations before the submission of this information to FDA. But the Commissioner does not believe that the institutional review committee can lawfully or practically substitute for the regulatory functions of FDA. The Commissioner must have the opportunity to pass on the qualifications of investigators, the adequacy of the informed consent forms used, and the labeling of the device. Furthermore, as discussed in more detail below, the Commissioner believes that the institutional review committee is not a substitute for the sponsor's monitor in controlling the quality of the entire study, although the Commissioner points out that no such monitor would be required where the sponsor is a sponsor-investigator.

SPONSOR RESPONSIBILITIES

Proposed subpart C states requirements applicable to sponsors of investigational studies. It supplements the agency-wide proposed regulations on obligations of sponsors and monitors of clinical investigations under part 52 (21 CFR part 52) published in the FEDERAL REGISTER of September 27, 1977 (42 FR 49611) and on good laboratory practices under part 58 (21 CFR part 58) published as proposed part 3e in the FEDERAL REGISTER of November 19, 1976 (41 FR 51206).

Certain responsibilities of sponsors that were the subject of subpart C of the original investigational device proposal of August 20, 1976, have either been addressed in subpart B of this tentative final regulation or by proposed part 52. Other provisions of the original investigational device proposal will be replaced by future proposed FDA regulations on the obligations of clinical investigators and on standards for institutional review boards. This cross-reference chart explains these changes in proposed subpart C:

Provision	Aug. 20, 1976, proposal (sections)	Current (sections)
General	812.40	812.40
Review of an investigational study by FDA and institutional review committee.	812.42(a)-(b)	812.20, 812.21 812.42(a) 52.25
	812.60(a)	812.42(b)
	812.42(c)	812.20, 812.21 812.39 812.55 52.29(b)(ii)[1]
Selection of investigators	812.43(a)	812.43(a)
	812.43(b)	812.43(b)
Control over the investigational device	812.45(a)	812.45 52.29(b)(ii)
	812.45(b)	52.114
	812.45(c)	52.108
	812.45(d)	52.47
Monitoring the investigational study	812.46(a)	812.46(a) 52.28 52.126
	812.46(b)	52.28, 52.29
	812.46(c)	52.29(b)(ii)
	812.46(d)	812.46(b)
	812.46(e)	52.28, 52.29
	812.46(f)	812.46(c)
	812.46(g)	812.46(d)
Submitting information to investigators	812.47(a)	812.47(a)
	812.47(b)	812.46(c)
	812.47(c)	812.47(b)
	812.47(d)	([2])
Promotion and sale of an ivestigational device	812.50(a)	52.118 812.5 812.50(b)
	812.50(b)	52.118 812.50 (a), (b)
	812.50(c)	812.50(c)
Reporting to FDA, maintaining records, and permitting inspection.	812.55(a)	812.55(a)
	812.55(b)	812.55(b) 812.55(c)
	812.55(c)	812.55(d)
	812.55(d)	812.55(e) 812.55(f)
	812.55(e)	812.55(g)
	812.55(f)	52.195
	812.55(g)	812.55(h)
	812.55(h)	812.55(i)
	812.55(i)	812.55(j)

[1] Future FDA investigator and institutional review regulations.
[2] Deleted.

GENERAL

Proposed § 812.40 states that the requirements of this subpart are applicable to sponsors of investigational studies, including sponsor-investigators, except as specifically provided otherwise in FDA regulations, e.g., in proposed § 812.2(e), which exempts sponsor-investigators from certain requirements.

REVIEW OF THE INVESTIGATIONAL STUDY BY FDA AND THE INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.42(a) (21 CFR 812.42(a)) requires the sponsor to meet applicable requirements for institutional review, submit a notification or application to FDA, and be granted FDA approval, where required, before any human subject is allowed to participate in, or is requested formally to consent to participate in, the investigational study.

Comments questioned the proposal to require the approval of an institutional review committee, when one is to be used, before submission of an application to FDA. The current investigational new drug regulations merely require an assurance that institutional review will be obtained prior to actual commencement of the investigation. The Commissioner believes it is desirable to require institutional review before submission of a notification or an application for an investigational device exemption because such review will enable FDA to rely on committees to screen out studies that would not be performed even if FDA reviewed them favorably, and to provide FDA with better information on the committees being used by sponsors and investigators under investigational device exemptions. The Commissioner will, for the same reasons, propose a similar requirement of prior institutional review for other clinical investigations regulated by FDA, including investigational new drug investigations, in future proposed regulations establishing standards for institutional review boards.

Several comments suggested that it is appropriate to ask potential subjects whether they will be available to participate in the study before undertaking the expense of applying for an investigational device exemption. The Commissioner agrees that it may be permissible for sponsors to make preliminary surveys of potential subjects to determine whether there will be an adequate number of subjects willing to participate in the study. Language that might be interpreted to prohibit such preliminary contacts has been eliminated. The Commissioner cautions, however, that an investigator or sponsor must not request a subject to give informal consent to the study until the study has been approved by the institutional review committee and FDA, where these approvals are required.

The Commissioner received comments that monitoring by the sponsor duplicates the review by the institutional review committee. The comments argued that the monitoring function should be assigned either to the committee or to the sponsor, but not to both. The Commissioner maintains that both sponsors and institutional review committees need to oversee investigational studies, and the Commissioner doubts that duplication of effort really will result since the monitoring responsibilities of the two groups differ. The primary responsibility for monitoring the investigator's conformity to the plan and ensuring the validity of data from the study rests with the sponsor, although these also are concerns of an institutional review committee; the primary responsibility of a committee is to review the

study to ensure protection of human subjects. The sponsor's duty is to monitor a study continuously; the committee has only a general responsibility to review a study periodically. The committee, unlike the sponsor, offers a disinterested review of a study. Moreover, the statute requires device studies to be both monitored by sponsors and reviewed by committees.

Several comments from institutional review committees objected to the provision for the sponsor rather than the investigator to submit the investigational plan to the institutional review committee for approval. The Commissioner agrees that it is better for investigators rather than sponsors to submit investigational plans to institutional review committees. However, section 520(g)(3) of the act speaks of the sponsor submitting the plan (and report of prior investigations) to an institutional review committee. To respond to the comments and the agency's own preference that investigators deal with committees, but without departing from congressional intent, the Commissioner has revised proposed § 812.42(a) so that the sponsor's responsibility is now stated as ensuring that institutional review occurs, rather than submitting an application to a committee, which will be primarily the investigator's responsibility under future FDA regulations.

Proposed § 812.42(b) describes the circumstances in which institutional review is required under the investigational device regulations. A counterpart provision, proposed § 812.60(a), in the August 20 proposal would have required an institutional review committee to review and monitor an investigational study in any of three situations: When the investigational study involves institutionalized human subjects; when the study is conducted by an individual affiliated with an institution that assumes responsibility for the investigation, or when the study is conducted in an institution that has a committee meeting FDA standards. (References to § 812.60 in proposed Part 52 on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977 (42 FR 49611) should now be considered references to propose § 812.42(b).

The Commissioner believes that the purposes and processes of institutional review are now so widely accepted, and its value so generally recognized, that all clinical investigations should undergo such review unless circumstances clearly make it unnecessary, or infeasible, or inimical to the subject's interest. Therefore, he is proposing in § 812.42(b) and future agency-wide regulations to make review by an institutional review committee a general precondition to submission of any clinical investigation that is subject to requirements of the act for prior submission to FDA for review, and in some cases approval, before it can be commenced. He further proposes that FDA generally will not consider any clinical investigation in support of an application for a research or marketing permit (as defined in § 52.3(b) in the September 27, 1977 proposal) unless the investigation was conducted under an institutional review committee. This proposal would not mean that the results of the investigation need not be submitted to FDA. The usual rule that all data and information relevant to a particular article (a proposed or marketed product, for example) must be submitted remains in effect. Even in situations where the scientific validity of an investigational drug study is not in question, FDA may receive data but not use it in support of a decision to approve testing or commercial distribution of a drug because of ethical improprieties in the conduct of the study (21 CFR 312.20).

The Commissioner recognizes that there may be situations in which an institutional review committee requirement may be unneccesary, redundant, or contrary to the interests of a subject. The Commissioner therefore proposes § 812.42(d) to accept an application for waiver of the institutional review committee requirement upon a showing that the requirement is not necessary either for protecting the subjects involved or for ensuring the validity or reliability of the scientific data. The section provides, however, that the requirement will not waived in three situations: (1) When the investigation involves institutionalized subjects; (2) When it is conducted on the premises of, or utilizes personnel or resources of, an institution having an institutional review committee meeting FDA's standards; and (3) When the Commissioner finds that the risks to the subjects in the investigation justify utilizing a committee to review it.

Except in these situations, the Commissioner may, upon petition, waive institutional review for specific ongoing device studies, especially where a study was initiated several years before the proposed requirement becomes effective or if he concludes that institutional review is not required considering the degree of risk posed by the investigational study.

Numerous objections were received to the requirement of § 812.42(c)(2)(iv) of the August 20, 1976 proposal that the sponsor assure that the institutional review committee complies with the requirements of Subpart D (to be superseded by future FDA regulations establishing standards for institutional review boards). The Commissioner agrees that the proposed requirement was impractical and that the sponsor cannot supervise the daily activities of the institutional review committee. However, he does not believe that the sponsor can continue to rely on the institutional review committee's agreement to comply with FDA requirements once he learns that the committee does not meet FDA standards. Accordingly, in proposed § 812.55(f) FDA is requiring a sponsor to report to FDA when the sponsor learns that a committee is not complying with its agreement to review the study or with applicable FDA regulations. Such reports will enable FDA to discover when committees are not meeting their obligations and to decide whether the committee's process of review is adequate for FDA-regulated clinical investigations.

A comment on § 812.42(c)(2)(ix) of the August 20, 1976 proposal objected to the requirement that the sponsor maintain or assure that an investigator maintains the records of all submissions to and actions by the committee. As revised, proposed § 812.55(g) now merely requires the sponsor to maintain copies of all communications he has engaged in with the committee and with any investigator regarding the study.

SELECTION OF INVESTIGATORS

Proposed § 812.43(a) (21 CFR 812.43(a)) requires the sponsor to select qualified investigators.

Proposed § 812.43(b) requires the sponsor to obtain the investigator's signed statement, which includes an agreement to comply with FDA regulations and a description of his or her qualifications.

Two comments were received on proposed § 812.43(b)(1). One was that an investigator of devices should not be required to certify his or her credentials to FDA since an investigator of drugs does not have to meet this requirement. This comment argued that Parts 812 and 312 should be consistent. A second comment argued that the sponsor should obtain assurance statements from investigators, file them, and submit only the sponsor's assurance to FDA that the investigator's statement was on file.

The Commissioner believes that for enforcement reasons it is better for FDA to have copies of the signed undertaking of the investigator. Moreover, this requirement is imposed by section 520(g)(3)(C) of the act. For these reasons, the Commissioner rejects both comments.

Proposed § 812.43(b)(1)(vi) requires that the sponsor describe the specific experience of the investigator with the device to be investigated, including the date, amount and description of the experience, and the name of the institution where the device was investigated. This language is adopted from a useful comment suggesting that such information is relevant in selecting the

investigator and passing on his qualifications.

Proposed § 812.43(b)(3) as revised clarifies that subordinate investigators who are responsible to the named investigator may participate in the study.

Proposed § 812.43(b)(4) requires the investigator to state whether any study or research that such investigator has been involved in has been discontinued by order of a sponsor, institutional review committee, or FDA. Comments objected that such disclosure may unfairly prejudice the selection of an investigator. The Commissioner disagrees. The selection of a qualified investigator will not be prejudiced by this provision since it functions only to alert those responsible for selecting investigators and approving investigators' qualifications to matters that may require consideration. The Commissioner does not intend that qualified investigators be excluded from studies simply because prior studies have been suspended or terminated for reasons that do not refect on the investigator's qualifications. The Commissioner does not believe a sponsor will refuse to include an investigator simply because a study was terminated for reasons unrelated to investigator qualifications. If this information is not required to be disclosed, the sponsor and FDA may be deprived of information relevant in evaluating the investigator's ability to conduct the proposed investigation. Accordingly, the Commissioner has retained the provision.

The Commissioner received a comment objecting to the provision of proposed § 812.43(b)(5), which requires the naming of other investigators who are to participate under the supervision of the lead investigator, because there might be frequent turnover among a sponsor's house staff that reports to a lead investigator. The Commissioner believes it essential that all investigators participating in the study be identified in records submitted to FDA.

CONTROL OVER THE INVESTIGATIONAL DEVICE; FACILITIES

Proposed § 812.45(a) requires the sponsor to ship the device only to investigators who have signed statements in accordance with § 812.43(b) to abide by FDA regulation. The sponsor must also comply with FDA requirements on control of investigational devices and assuring the adequacy of facilities (proposed Subparts C and F of Part 52), described in the September 27, 1977 proposed regulations on obligations of sponsors and monitors of clinical investigations.

Proposed § 52.108 requires the sponsor to maintain records of all shipments of the device to investigators. Comments on proposed § 812.45(c) of the August 20th proposal objected to this procedure on the grounds that section 520(j) of the act prohibits unnecessary traceability requirements. The comment further argued that there was nothing in the preamble that would justify the recordkeeping requirement.

The Commissioner believes that only by strict accounting for the devices received can the control over investigational devices intended by Congress be ensured. The Commissioner believes that it is, or should be, standard practice for many investigational devices to bear an identification number enabling the shipper to determine where that device was shipped by referring to a record of that number. The Commissioner notes that only one comment objected to this provision. The Commissioner concludes that traceability requirements for investigational devices are necessary to ensure the protection of the public health and are not unreasonable or unduly burdensome.

The Commissioner received comments that the language of § 812.45(d) of the August 20th proposal concerning the adequacy of facilities incorrectly implied that the device must be "safe and effective for testing" when it is the very purpose of the study to determine safety and effectiveness. The Commissioner agrees that this language was inappropriate and has not included it in proposed § 52.47.

Another comment argued that § 812.45(d) of the August 20th proposal effectively imposed a good manufacturing practice (GMP) requirement on investigational devices. Since the statute provides for investigational devices to be exempted from GMP's, the comment suggested that proposed § 812.45(d) be deleted.

The Commissioner believes that the comment reflects a misunderstanding of the act and the regulation. The effect of proposed § 52.47 (which replaces § 812.45(d) of the August 20th proposal) is not to require a sponsor to comply with GMP regulations issued under section 520(f) of the act where such a requirement would be inappropriate. Rather, the proposal that a sponsor assure the adequacy of testing facilities is a requirement that is necessary both for the protection of the public health and safety and for efficient enforcement of the act, under sections 520(g)(2)(B) and 701(a) of the act.

MONITORING THE INVESTIGATIONAL STUDY

Proposed § 812.46(a) requires the sponsor to comply with the requirements of 21 CFR 52.28 and the sponsor's monitor to comply with 21 CFR 52.29. Sections 52.28 and 52.29 were proposed in the September 27, 1977 proposed regulations on obligations of sponsors and monitors.

One comment questioned the use of the term "appropriately trained and qualified" with respect to the individual designated to monitor the study. The comment argued that the sponsor's monitor could be an administrator and need not be scientifically qualified. The Commissioner will consider this comment in developing a final regulation on proposed §§ 52.28 and 52.29.

One comment suggested that although one individual within a company should be held responsible for the investigation, that person should be permitted to use subordinates to assist in monitoring studies. Proposed § 52.28 now provides explicitly for a sponsor to designate more than one monitor.

Proposed § 812.46(b) clarifies the sponsor's responsibility in the event the sponsor discovers that an investigator has not complied with FDA regulations or with his or her agreement to conduct the study in accordance with this regulation. The sponsor is required to secure the investigator's compliance with the requirements of this part or discontinue shipments to such investigator. In addition, the sponsor may suspend or terminate any study that the investigator is performing for the sponsor. In some cases, an investigator may be brought into compliance without discontinuance of shipment or suspension of the study. A sponsor must act quickly to secure investigator compliance. The sponsor cannot permit the investigation to continue without a convincing assurance from the investigator that he or she will comply in the future. The sponsor's responsibility to monitor the study under proposed §§ 52.28, 52.29, and 812.46(b) is not discharged by merely obtaining an agreement to comply from the investigator.

Proposed § 812.46(b), as revised, differs somewhat from the August 20th proposal and is proposed on the Commissioner's initiative rather than in response to comments. No specific action was required of the sponsor by the August 20th proposal. The Commissioner wishes to stress that while a sponsor can, in good faith, rely on an investigator's agreement to comply with resgulations, once a sponsor discovers in any manner (either by monitoring or otherwise) that the investigator is no longer in compliance, the sponsor must act to secure compliance or suspend the study.

Proposed § 812.46(c)(1) requires the sponsor to undertake a special investigation whenever the sponsor learns of any serious adverse effect, death of subject, or life-threatening medical problem, that may reasonably be regarded as device-related. Once the sponsor has learned of any of these, the sponsor must relay the information to other investigators participating in the study and to FDA. The

report must be made as soon as possible, but in no event later than 10 working days after the sponsor learns of the effect, death, or problem. This section was modified in response to comments arguing that only reactions which are both "device related" and "serious" should have to be reported. With respect to the term "device related," the Commissioner cautions that the term includes any reaction that may reasonably be regarded as caused by or associated with the device. This includes reactions associated with any part of an entire device system, including the packaging.

One comment proposed that special investigations be undertaken in cooperation with appropriate institutional officials and the investigator. The Commissioner expects that while a special investigation may often involve persons in addition to the sponosor, it is proper for FDA to place the primary responsibility on the sponsor to undertake such an investigation.

One comment suggested that an informal conference with the sponsor be held immediately if FDA suspends the study under § 812.46(c)(2). As indicated above, agency experience with prehearing conferences suggests that such conferences often become like formal hearings. The Commissioner believes that provision for a prehearing conference would unnecessarily delay the administrative process and would duplicate provisions for obtaining review of the withdrawal of an investigational device exemption. Accordingly, no provision is made for such an informal conference.

Several comments argued that the study should be suspended only after the sponsor has had the opportunity to assess adverse reactions. The Commissioner agrees that the point at which information is believed to exist which would warrant suspension of the study is initially a matter of the sponsor's judgement, although FDA or an institutional review committee may order suspension after reviewing the data. The Commissioner does not intend that a suspension be imposed automatically or that a suspension necessarily result in termination of a study. Only when the potential risks of continuation outwiegh the potential benefits should the study be terminated.

Each study must be assessed on its own merits. The Commissioner received a comment that the failure of a life-sustaining device in a study involving several subjects would not warrant the removal of that device from other subjects if removal would cause or threaten to cause the death of the ramaining subjects. The Commissioner agrees but believes it appropriate to provide that, after suspension, only those subjects whose medical needs require the continued use of the device may continue to receive the device. Also, no new subjects may be brought into the study.

The Commissioner believes that the 5 working days, or less, is not too short a period to suspend an investigation once sufficient information has been discovered to warrant suspension. The Commissioner did not intend to require that a study be suspended within 5 days on the basis of isolated adverse reports. The Commissioner does require the sponsor to investigate and correlate adverse information to determine whether it warrants suspension of the study. The Commissioner emphasizes that FDA may reverse the sponsor's decision not to suspend a study in appropriate cases.

Proposed § 812.46(d) prohibits sponsors from unduly prolonging a study. This paragraph was revised to respond to comments that FDA should not force a sponsor to submit a premarket approval application if the sponsor does not wish to do so. As revised, proposed § 812.46(d) provides that once data are developed which would support submission of an application for premarket approval, the sponsor must either submit such an application or discontinue the study. The sponsor is no longer required to give a statement of the sponsor's reasons for discontinuing the study without submitting an application for premarket approval to FDA.

One comment advocated that the sponsor be allowed to continue to provide the investigator with the device between the completion of the clinical trials and formal commercial marketing (e.g., while the premarket approval application is undergoing review).

The Commissioner advises that this practice will be permissible as long as the investigational device exemption is active while the premarket approval application is pending and the investigator remains a qualified investigator who complies with FDA regulations.

SUBMITTING INFORMATION TO INVESTIGATORS

Proposed § 812.47 requires the sponsor to provide all investigators with copies of the investigational plan, the report of prior investigations of the device, and labeling (including labels) for the device which shall meet the requirements of proposed § 812.5(b). Proposed § 812.47 does not apply to a sponsor-investigator who is the only investigator.

Proposed § 812.47(b) requires the sponsor to notify the investigator of the completion or discontinuance of the study or of the withdrawal of an exemption.

Proposed § 812.47(c) requires the sponsor to notify the investigator if a premarket approval application for the investigational device is granted.

One comment argued that there is no statutory basis for requiring the sponsor to notify the investigator if an application for premarket approval has been approved. The Commissioner believes it important for investigators to understand the regulatory status of products they use. Thus, the requirement is authorized under sections 520(g) and 701(a) of the act.

PROMOTION AND SALE OF AN INVESTIGATIONAL DEVICE

Proposed § 812.50(a) requires a sponsor to comply with 21 CFR 52.118. Proposed § 52.118, a section of the proposed regulations on obligations of sponsors and monitors, prohibits a sponsor from representing that an unmarketed investigational device is safe and effective for the purpose for which it is under investigation and from otherwise commercializing the device.

The Commissioner received several comments urging that the regulation not apply these requirements to devices for which the act provides a transitional period. The Commissioner has partially responded to these comments by not applying this requirement to lawful commercial shipments of devices during the transitional period under section 501(f)(2)(B) of the act. The requirement does, however, apply to all shipments for investigational use of devices, including devices previously regulated as new drugs that are subject to section 520(1) of the act.

Several comments defended the practice of making claims for safety when only the effectiveness of the device is being investigated. Such an investigation could occur where the device has a proven market history and is being investigated for a new use. Similarly, a device might be known to be effective but its safety might require further investigation.

The Commissioner believes that the concern expressed in the comments is partly addressed in proposed § 52.118. The Commissioner cautions that a maufacturer cannot make (1) claims of effectiveness for the purposes for which a device is under investigation if the device is being tested for effectiveness for those purposes, or (2) claims for safety for certain purposes if the device is being tested for safety for those purposes; or (3) claims for both safety and effectiveness for certain purposes if both safety and effectiveness for those purposes are under investigation.

Several comments were received on proposed § 812.50(b)(1) of the August 20, 1976 proposal which prohibited commercial distribution and test marketing of an investigational device or other commercialization until it has been approved for marketing for the purpose for which it is under investigation. (This restriction does not apply to lawful commercial shipments of Class III devices in commercial dis-

tribution on or before May 28, 1976, or devices substantially equivalent to such devices, or to class I or II devices; the Commissioner has clarified that this restriction does apply to investigational devices in class III under section 520(1) of the act that were previously regarded as new drugs.)

One comment objected to a supposed restriction on test marketing of widely used consumer items since product testing to determine consumer attitudes is an important decision element in the company's operations plan. Once safety and effectiveness are proven, the comment argued, the company should be able to premarket test the device prior to incurring the cost of obtaining premarket approval of the device. The comment conceded that test marketing is not a substitute for adequate clinical testing and should not be a subterfuge to permit the commercial distribution of a product while the product is still undergoing testing or premarket approval. The comment urged that there be an opportunity for premarket testing before complying with sections 510(k) or 513(f) of the act.

In proposed § 812.2(b)(2) (21 CFR 812.2(b)(2)), the Commissioner has exempted from Part 812 test marketing of a device conducted solely to investigate consumer preference. Other test marketing can be accomplished under an investigational device exemption. The waiver provisions in § 812.10 provide a mechanism to avoid application of inappropriate requirements.

Proposed § 812.50(c) prohibits the sponsor from charging for use of the device if FDA finds the price to be unreasonable. This provision received several comments.

The Commissioner notes that traditionally FDA has rarely allowed a charge for an investigational new drug. The Commissioner concedes that the investment cost of developing a device may often be far greater than the cost of developing a new drug, and that the actual cost recovered by the manufacturer may be a factor in proceeding with development of the device. Thus, the Commissioner believes that it may be reasonable for a sponsor to recoup such sponsor's development cost, particularly for a high cost device, even while the device is being investigated.

However, because an effective means is needed to prevent commercialization of a device under the guise of recovering development costs, the Commissioner believes it necessary to retain a provision for FDA to find unreasonable the cost on an investigational device in particular cases. Evidence of profitmaking by means of charges for relatively inexpensive items may suggest that the device is actually being marketed prior to completion of the investigation in violation of the act and these regulations.

The Commissioner does not intend to substitute the Commissioner's judgment for that of the sponsor or manufacturer of the device as to the need to recoup development costs. The Commissioner will, however, determine whether the charge exceeds that necessary for appropriate recoupment. If the Commissioner finds that commercialization of the device is the actual objective of the charge, the Commissioner will notify the sponsor of this finding and that the application for an investigational device exemption is disapproved (or the exemption withdrawn) unless the sponsor agrees not to charge or to reduce the charge (and, where appropriate, to refund the charge). A sponsor who does not wish to eliminate or reduce the proposal to charge for the device may inform the agency of his interest in a regulatory hearing under the procedures in § 812.30(d) for disapproval of an application or, where appropriate, in § 812.35(b) for withdrawal of an investigational device exemption.

REPORTING TO FDA, MONITORING RECORDS, AND PERMITTING INSPECTION

Proposed § 812.55(a) requires the sponsor to maintain records on which to base reports to FDA. Reports are required to be made at appropriate intervals not exceeding 1 year.

Proposed § 812.55(b) requires the sponsors to notify FDA within 30 days of completion, termination, or discontinuation of the study (including withdrawal of the exemption). A final report is required to be furnished to FDA within 6 months after the study is concluded.

Proposed § 812.55(c) requires the sponsor to notify FDA whenever the sponsor requires investigators to return or dispose of the supplies of the device and of steps taken to comply with the provisions for alternate disposition of the device found in proposed § 52.114, a provision of the proposed regulations on obligations of sponsors and monitors of clinical investigations.

Proposed § 812.55(d) requires the sponsor to report to FDA a serious adverse reaction (including death or life-threatening medical problem) that is subject to the requirement of a special investigation and that occurs during the course of the study.

Proposed § 812.55(d) or § 812.55(c) in the August 20, 1976 proposal) was the subject of several comments. One comment argued that the meaning of "adverse" was unclear and asked how adverse the reaction must be for it to be reportable. The Commissioner has qualified this requirement so that only "serious" adverse effects will trigger the reporting requirement. Other comments were that the reporting period is too short and should be extended to 10, 15, or 30 days. The Commissioner has lengthened to 10 working days the period for reporting results to FDA, to conform to future agency regulations on responsibilities of investigators.

Another comment suggested that if an institutional review committee is monitoring the investigation, the sponsor need not provide FDA with the report of special investigation. The Commissioner disagrees. The notification to FDA is necessary; FDA is the repository of all information regarding the application, together with information relating to similar studies, and is in a better position than any individual institutional review committee to make findings both with respect to the study from the standpoint of national standards for device investigations, and with respect to other related studies of which a particular institutional review committee may be unaware.

Proposed § 812.55(e) requires the sponsor to submit to FDA a copy of any investigator's determination that informed consent could not be obtained from the subject. The report is required to be submitted within 5 working days after the sponsor receives the report of the determination from the investigator. One comment suggested extending the reporting period to 30 days. The Commissioner believes that extending the period to 30 days might make it more difficult to reconstruct the precise events by questioning subjects should an investigation be required.

The Commissioner believes that the requirement for informed consent is important and that deviations from informed consent warrant immediate notification.

Proposed § 812.55(f) requires a sponsor to report to FDA any discovery that an institutional review committee is not complying with its agreement to review the study or with applicable FDA regulations.

Proposed § 812.55(g) requires the sponsor to keep records of all applications, reports, and correspondence that the sponsor submits to FDA and of all communications between the sponsor and any institutional review committee or investigator regarding the study.

Proposed § 812.55(h) permits a sponsor to withdraw from recordkeeping requirements by transferring custody to another person. Notice of transfer of custody must be given to FDA.

Proposed § 812.55(i) authorizes FDA and the institutional review committee or their authorized representatives to inspect sponsor records and facilities. Proposed § 812.55(i) (§ 812.55(h) in the August 20, 1976 proposal) has been changed to clarify the authority of the sponsor to withhold from inspection by the institutional review committee trade secret or commercial or financial information that is confidential, as described in 21 CFR 20.61. This change

was made in response to comments that the institutional review committee should not have access to a sponsor's trade secrets and concern that rival investigators and sponsors might gain access to proprietary information by means of membership on an institutional review committee. The Commissioner emphasizes that the committee may need to have access to safety and effectiveness data and that an institutional review committee is not required to approve a study when it lacks the data it requires for a proper determination of whether it is safe to begin or continue trials with human subjects.

Other comments argued that a sponsor's financial records should be exempt from FDA inspection. The Commissioner responds that financial records are relevant to determine whether or not a device is being commercially marketed and are required to be made available for inspection by FDA for that purpose.

Another comment argued that the sponsor should be responsible only for providing access to those facilities over which the sponsor has physical control, e.g., not those of investigators or government agencies. The Commissioner clarifies that this section is not to be interpreted to require the sponsor to provide access to material where the sponsor lacks authority to provide for such access.

Other comments expressed the view that FDA should be able to copy only those records relevant to the study under investigation. The Food and Drug Administration will only exercise its authority to copy records when these records are relevant to the study, but maintains that the initial judgment as to relevance must be FDA's rather than the sponsor's.

Comments expressed concern about the confidentiality of patient names in records subject to FDA inspection. The Commissioner perceives no conflict between these provisions and the DHEW regulation on protection of human subjects, 45 CFR Part 46, for the confidentiality of patient data. Although the Commissioner reasserts his right to inspect and obtain patient names when appropriate, the Commissioner recognizes that the issue may be decided by future legislation or other FDA regulations and that investigators have legitimate ethical concerns about protecting patient confidentiality, which FDA will carefully weigh before requiring patient data to be provided. The Commissioner regards exercise of the Commissioner's authority to obtain patient names as an unusual step, but one which the Commissioner may need to take in certain circumstances where necessary to protect the health of subjects or assure the validity of data.

A comment on proposed § 812.55(j) (§ 812.55(i) in the August 20, 1976 proposal) argued that the requirement for the sponsor to submit "any records" is too broad and should be narrowed. The Commissioner has the authority to require relevant records, but because the Commissioner cannot foresee which records may be required, the Commissioner believes the present language is appropriate.

Practical Difficulties in Determining the Sponsor Relationship

The Commissioner received a comment arguing that there are practical difficulties in determining when a manufacturer is actually a sponsor within the meaning of the regulation. The comment cited the examples of an investigator who continues clinical testing of a device after the sponsor has suspended or discontinued a sponsored investigation, or who requests a sample of a marketed device from a sponsor for the purpose of testing a new use, or who conducts tests during the course of a sponsored investigation which were not part of the sponsor's investigational plan. The comment expressed concern that manufacturers might become sponsors involuntarily because of unauthorized actions by an investigator. The comment argued that the term "sponsor" should not include a person who might otherwise be considered a sponsor but who obtains a written agreement from the investigator that the investigator is a sponsor-investigator.

The Commissioner agrees. The agency generally does not object to an investigator assuming the responsibilities of a sponsor and has explicitly recognized the existence and status of sponsor-investigators in the September 27, 1977 proposed regulations on obligations of sponsors and monitors of clinical investigations. Nor does the Commissioner generally object to a manufacturer employing contractual or other means to clarify his relations with investigators or with respect to particular investigations which the manufacturer does not wish to sponsor. However, the Commissioner cautions that the actual relationship between the parties may be examined to determine whether the relationship between the parties is as described. The Commissioner would be concerned if a device manufacturer's efforts to avoid responsibility for device studies resulted in undue risks to subjects or undermined the validity of the data from the studies. In such cases, FDA may inform the manufacturer to cease shipments of the investigational device if the manufacturer is unwilling to assume the responsibilities of a sponsor. Aside from these concerns, however, manufacturers and investigators are free to tailor their relationships to their own needs.

The Commissioner also cautions that the question of who serves as a sponsor under proposed Part 812 is not intended to have any bearing on liability questions in product liability lawsuits.

Responsibilities of Institutional Review Committees

Subpart D of the August 20th proposal concerning the responsibilities of institutional review committees will be superseded by a future FDA regulation applicable to clinical investigations of drugs, devices, and other articles. The substance of the future regulation is largely found in existing regulations in 21 CFR Part 312 and 45 CFR Part 46, as well as portions of the August 20th proposal. Comments on Subpart D are being considered by the internal FDA task force responsible to the Commissioner for the preparation of this document. Until the future FDA regulation is promulgated as a final order, Subpart D of the August 20th proposal can be followed as a guideline for device studies.

Responsibilities of Investigators

Subpart E of the August 20th proposal concerned the responsibilities of investigators and will be superseded by an FDA proposed regulation on clinical investigators of drugs, devices, and other articles, which will be published in the Federal Register in the near future. Comments on Subpart E are being considered by the internal FDA task force responsible for preparation of this proposal, which, until the future FDA regulation is promulgated, can be followed as a guideline for device studies.

Informed Consent

Several comments objected to the informed consent requirement as it related to in vitro diagnostic products. The Commissioner believes that those comments are effectively met by the exemption in proposed § 812.2(b)(5) of most in vitro diagnostic products from the requirements of this regulation.

The Commissioner received few other comments on proposed Subpart F. Some comments argued that FDA should await the result of the study of informed consent being conducted by the National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research. The Food and Drug Administration has been in contact with the staff of the National Commission and has received materials from them and placed these materials on public display in the Hearing Clerk's Office. However, because Congress has mandated that regulations relating to investigational devices be published promptly, and the National Commission will not make its report on informed consent in the immediate future, the Commissioner has decided not to wait for the

National Commission to publish its recommendations. The Commissioner will, of course, consider any proposals made in the final report of the National Commission as they relate to the protection of human subjects and will make appropriate revisions in the proposed regulation after it is made final. Other revisions of Subpart F may occur if the Commissioner decides to promulgate general informed consent regulations applicable to clinical investigations of drugs, devices, and other articles.

Several comments argued that the requirement of informed consent should be related to the degree and nature of the risk presented to patient safety and privacy. The Commissioner agrees but believes that this flexibility is inherent in Subpart F.

Several comments argued that the regulations should provide for oral informed consent in certain cases. Most of these comments concerned studies of in vitro diagnostic products and have been addressed by the exemption of many such products from proposed Part 812. Although no provision for oral informed consent is being proposed, the Commissioner invites comments on a procedure, set out below as possible proposed § 812.123(c), that would enable an investigator to certify in writing that oral consent was obtained from the subject or the subject's legal representative. Use of the certification procedure would be limited to situations in which the device is both a nonvital device and is used in a low risk study, under a notification rather than an application for an investigational device exemption.

(c) (1) With the approval of the sponsor and the institutional review committee, the investigator may make a written record certifying that he has obtained the oral informed consent of the subject (or, where appropriate, the subject's legal representative) when the study involves a nonvital investigational device used in a low risk study for which the sponsor has submitted a notification under § 812.20, and the Food and Drug Administration's letter under § 812.20(c)(1) informing the sponsor of the date of receipt does not also inform the sponsor that (i) an application, rather than a notification, is required, (ii) that the agency disagrees with the determination as to whether the device is vital or with the determination as to risk assessment, or (iii) that written consent in accordance with paragraph (c) of this section shall be obtained.

(2) Where the certification procedure is permitted to be used, the investigator may certify that such investigator has obtained the oral informed consent either of a group of subjects or of every subject. Where the study involves repetitive procedures, e.g., the subsequent use of the same test, oral informed consent may be documented by a single record certifying that consent was obtained for the initial procedure and the subject, or group of subjects, was advised that the procedure might be repeated and of the approximate number of times the procedure might be performed. When the study involves additional, nonrepetitive procedures, e.g., different tests, involving a subject at a time later than when oral informed consent is obtained initially, the subject's oral informed consent shall be separately documented when each such additional procedure occurs.

(3) A certification shall detail all the information given to each subject to obtain the subject's oral informed consent and shall be signed by the investigator. The certification shall be maintained in the investigator's records for the time prescribed in § 52.195 of this chapter.

GENERAL REQUIREMENTS OF INFORMED CONSENT

Proposed § 812.120 sets forth the general requirements for obtaining informed consent.

One comment suggested there should be some means of obtaining consent of an illiterate subject who is not under a legal disability.

The Commissioner believes that written informed consent generally can be obtained from an illiterate individual who wishes to consent to use of an investigational device. In general, an illiterate but competent individual should have the same access to an investigational device as does a literate person. Where an individual from whom informed consent is sought is of limited literacy, the investigator should read the written agreement to the individual and obtain the individual's signature or mark. If an illiterate subject also has limited capacity to give informed consent (e.g., because of mental retardation), the investigator should obtain informed consent from the subject's representative. The Commissioner invites public comment whether the approach described here adequately covers those situations where written informed consent to use an investigational device would have to be obtained from an illiterate individual; whether there are likely to be illiterate subjects or representatives of subjects who are incapable of signing their names or marks; and, if so, whether there should be either a provision for independent witnesses to attest that the agreement was read to the illiterate and that the illiterate consented to use of the device, or an exception in emergency cases from the requirement that the consenting individual sign the written agreement, or both.

Another comment suggested that existing DHEW rules on the elements of informed consent are sufficient for this regulation. The Commissioner disagrees. The additional requirements found in this section were required in light of the legislative history of the act (House Report No. 94-1090, Conference Report on Medical Device Amendments of 1976, May 6, 1976, at p. 64), which lists elements of informed consent that the congressional conferees on the legislation believed should be included. Accordingly, proposed § 812.120 continues to provide for elements of informed consent in addition to those required in 45 CFR Part 46.

Another comment suggested that making exceptions to written consent should be the prerogative not of FDA but of the institutional review committee. The Commissioner believes that because of the inherent differences among investigational review committees, and the varying performance of such committees, it is not acceptable to leave the determination of when an exception may be granted entirely to the discretion of individual institutional review committees. An institutional review committee may properly reject a determination by an investigator that an exception to the requirement for written evidence of consent is appropriate. However, the Commissioner believes that to grant the institutional review committee discretion to dispense with the requirement for a written consent, without FDA review of this decision, would deprive human subjects of the protection that Congress intended them to have.

Accordingly, proposed § 812.120(c) provides that informed consent shall be evidenced by a written agreement, signed by the subject or the subject's legal representative.

One other change suggested in proposed § 812.120 was that the term "legally effective informed consent" read only as "informed consent" since the term "legally effective" adds nothing to the requirement. The Commissioner has retained the term since it appears in the DHEW Guidelines, for reasons stated in the preamble to Subpart B.

EXCEPTION FROM REQUIREMENT

Proposed § 812.123 was altered in only one way. The term "effective" has been inserted before the term "alternative" in paragraph (a)(2) so that the investigator must determine, among other things, that there is no effective alternative method of therapy that is approved or generally recognized which may save the life of the subject. The purpose of this change is to provide that the therapy that is available as an alternative must be an effective therapy, not additional therapy that is not likely to produce effective results. This change is in response to comments that the therapy ought to be more likely to save the subject's life or aid the patient rather than merely be an alternative.

Other comments suggested deletion of the required determination that no alternative therapy exists, as it goes beyond the language of section 520(g)(3) of the act and would significantly decrease the use of the procedure contemplated. The Commissioner has determined that information on alternative therapy is needed in in-

formed consent forms for the protection of public health and safety, authorized in section 520(g)(2)(B) of the act. The Commissioner believes it appropriate to retain the alternative therapy provision, modified as described above.

Another comment argued that some subjects do not wish to be advised of the risks and benefits of the study being performed. The Commissioner is unable to see how the statutory requirement of obtaining informed consent can be met if the subject is not advised of the risks and benefits involved in the study. Regardless of the desires of the subject, there must be compliance with the statutory requirement with respect to investigational use of devices, that subjects involved in an experimental study be advised of the risks and benefits of the study so that their informed consent can be obtained.

A final comment noted that the time for determining in writing whether the situation was life-threatening should be after, not at the time of, the emergency. The Commissioner agrees that the determination of emergency may be reduced to writing by the investigator after the emergency situation has been treated.

ELEMENTS OF INFORMED CONSENT

Proposed § 812.130 has not been changed.

The Commissioner received several comments objecting to the use of the term "research." Substitution of the term "study" was suggested because it was felt that the subjects might equate "research" with "experimentation." The Commissioner sees no difference between the terms "research," "experimentation," and "study" and does not object to use of any of these terms in informed consent forms since the same idea is conveyed by all of these terms. There is no reason to change the proposal to achieve this flexibility. However, the Commissioner cautions against the substitution of euphemisms that disguise the investigational nature of the experiment. One way or another, the subject must be told that the device is an experimental device whose safety and effectiveness are not known and whose safety and/or effectiveness are currently the subject of investigation.

One comment was received on porposed § 812.130(a)(7) objecting to the requirement of informing subjects of the number of patients or subjects involved in the investigational study. The Commissioner believes that the number of subjects involved in an investigational study is relevant to the subject in assessing the risk to himself or herself. A subject might decline to participate in a study in which he or she was the only subject or one of a very small number of subjects. This information is relevant to the subject's assessment of the risks involved and should not be omitted. Furthermore, Congress specifically prescribed that one of the elements of informed consent was a description of the number of subjects involved (Conference Report, p. 64).

One comment argued that the requirement for informed consent in all testing of devices will effectively curtail testing of so-called "me too" devices, e.g., devices which are substantially equivalent to old devices. However, Congress elected to provide a licensing system for class III devices that requires manufacturers to establish individually the safety and effectiveness of their products. The Commissioner believes that he must give effect to the statute and its legislative history by requiring informed consent in any investigational study subject to the regulation and believes it proper for subjects to be told when they are part of an experiment.

TESTS THAT DO NOT INVOLVE HUMAN SUBJECTS

Subpart H relates to devices intended for nonclinical tests and was not controversial. Subpart H was not changed, except that a new paragraph (a)(4) was added to proposed § 812.160 requiring that the device be tested in accordance with any applicable regulations in proposed 21 CFR Part 58, regarding good laboratory practices, published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51206).

REFERENCES

Backgrougnd data and information on which the Commissioner relies in proposing this tentative final regulation and comments on the August 20, 1976 proposal have been placed on file for public review in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. This file includes memoranda of meetings between FDA employees and individuals outside FDA and representatives of other agencies, such as the National Institutes of Health and the following:

1. "Federal Control of New Drug Testing is Not Adequately Protecting Human Subjects and the General Public," General Accounting Office, July 15, 1976.

2. House Report No. 94-853, Medical Device Amendments, February 29, 1976 (Committee on Interstate and Foreign Commerce).

3. House Report No. 94-1090, Medical Device Amendments, May 6, 1976 (Conference Committee).

PROPOSED EFFECTIVE DATE

To provide interested parties an opportunity to begin clinical investigations prior to the effective date of the final regulation based on this tentative final regulation, FDA will accept applications for investigational device exemptions, if the applicant complies with the requirements set forth in the proposed regulation or, where different, this tentative final regulation.

Although applications may be submitted and will be processed, sponsors of investigational studies of devices are not required by law to submit applications before the final regulation is effective, and FDA is not obligated to respond within the 30-day period set forth in proposed §§ 812.20 or 812.21. Accordingly, until the final regulation becomes effective, a sponsor should not construe FDA silence as an approval of the application even if the 30-day period has elapsed. The Food and Drug Administration will attempt to notify sponsors that an application for exemptiom has been approved.

The Commissioner also cautions that changes in the final regulation may necessitate requiring a sponsor who relied on this tentative final regulation to submit additional information.

OPPORTUNITY FOR COMMENT AND PUBLIC HEARING

The final regulation will be published in the FEDERAL REGISTER after consideration of all comments submitted pursuant to this tentative final regulation and after an informal legislative hearing has been held at the end of the comment period pursuant to FDA's administrative practices and procedures regulations under Part 15 (21 CFR Part 15). Interested persons shall file a written notice of participation on or before June 12, 1978. In the event that no notice of appearance is filed, no hearing will be scheduled. A separate FEDERAL REGISTER notice will announce the exact date, time, and place of the hearing.

The Commissioner has carefully considered the environmental effects of the proposed regulation as revised in this tentative final regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Several comments argued that the proposal would have a serious adverse impact on the cost of conducting research on devices and thus, ultimately, on the prices charged consumers for devices. The Commissioner is sensitive to these concerns and believes the changes made to narrow the scope of the document and to provide an abbreviated application procedure will greatly reduce the industry's aggregate cost of complying with investigational device regulations. The Commissioner has not received any informa-

tion to justify a change in his conclusion that the proposal, as revised in this tentative final regulation, does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520, 701(a), 702, 704, 801(d), 52 Stat. 1042-1043 as amended, 1049-1051 as amended, 1055-1057 as amended, 90 Stat. 565-574, 587 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Chapter I of Title 21, of the Code of Federal Regulations as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. By revising § 16.1(b)(28) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(28) Sections 812.30(d), 812.35(b), and 812.170 relating to approval, disapproval, or withdrawal of approval of an investigational device exemption.

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PART 20—PUBLIC INFORMATION

2. Be revising § 20.100(c)(30) to read as follows:

§ 20.100 Applicability; cross-reference to other regulation.

* * * * *

(c) * * *

(30) Investigational device exemptions in § 812.38 of this chapter.

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3. By adding new Part 812 to read as follows:

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

Subpart A—General Provisions

Sec.
812.1 Scope.
812.2 Applicability.
812.3 Definitions.
812.5 General qualifications for an exemption.
812.10 Petitions for waiver of requirements.
812.12 Information previously submitted.
812.19 Requirements applicable to importers and exporters of investigational devices.

Subpart B—Notifications and Applications for Exemption for Investigational Studies Involving Human Subjects

812.20 Notification.
812.21 Application.
812.25 Investigational plan.
812.27 Report of prior investigations of a device.
812.30 Food and Drug Administration review of and action on an application.
812.35 Withdrawal of an exemption.
812.38 Confidentiality of data and information in an application.
812.39 Supplemental applications and submissions concerning applications.

Subpart C—Sponsor Responsibilities in Investigational Studies Involving Human Subjects

812.40 General.
812.42 Review of the investigational study by the Food and Drug Administration and the institutional review committee.
812.43 Selection of investigators.
812.45 Control over the investigational device; facilities.
812.46 Monitoring the investigational study.
812.47 Submitting information to investigators.
812.50 Promotion and sale of investigational devices.
812.55 Reporting to the Food and Drug Administration, Maintaining records, and permitting inspections.

Subparts D and E—[Reserved]

Subpart F—Informed Consent of Human Subjects

812.120 General requirements of informed consent.
812.123 Exception from requirement.
812.130 Elements of informed consent in agreement.

Subpart G—[Reserved]

Subpart H—Tests That Do Not Involve Human Subjects

812.160 Conditions of exemption.
812.170 Termination of exemption.

AUTHORITY: Secs. 301, 501, 502, 520, 701(a), 702, 704, 801(d), 52 Stat. 1042-1043 as amended, 1049-1051 as amended, 1055-1057 as amended, 90 Stat. 565-574, 578 (21 U.S.C. 331, 351, 352, 360j, 371(a), 72, 374, 381(d)).

Subpart A—General Provisions

§ 812.1 Scope.

(a) This part implements section 520(g) of the act and provides that a device may be exempted from any of the requirements of the act enumerated in paragraph (c) of this section that would otherwise be applicable to the device, to permit investigational studies of the device by experts who are qualified by scientific training and experience to investigate the safety and effectiveness of devices intended for human use.

(b) This part has two objectives:

(1) To encourage the discovery and development of useful devices by applying special requirements to investigational studies of devices in lieu of those otherwise applicable requirements that may impede such discovery and development.

(2) To protect the public health and safety by assuring adequate safeguards for human subjects in investigational studies, by requiring studies to be conducted in conformity with ethical standards, and by fostering the development of reliable data concerning the safety and effectiveness of devices.

(c)(1) In general, an approved notification or application under § 812.30 exempts a shipment of a device for investigational use from provisions of the following sections of the act and regulations thereunder: Misbranding under 502, registration and premarket notification under 510, performance standards under 514, premarket approval under 515, records and reports under 519, restricted device requirements under 520(e), good manufacturing practice requirements under 520(f), and color additive requirements under 706.

These sections of the act and regulations thereunder apply to commercial shipments of a device that was in commercial distribution before May 28, 1976, or is substantially equivalent to such a device, and that is being commercially distributed at the same time the device is being investigated under this part.

(2) A device shall not be exempted from a provision of the act listed in paragraph (c)(1) of this section if the Commissioner determines that it is not exempt from such a provision in an order of approval or disapproval under § 812.30.

(3) A shipment of a device may be exempted from a banned device regulation under section 516 of the act if the Commissioner has approved an application for such an exemption under § 812.30(a)(2).

§ 812.2 Applicability.

This part applies as follows:

(a) *Studies subject to this part.* This part applies to:

(1) Any investigational device used in an investigational study involving human subjects for the purpose of determining whether the device is safe and/or effective, unless excluded by paragraph (b) or (d) of this section.

(2) Any investigational study concerning a device, except as otherwise provided in this section, whether it is undertaken to develop data to obtain approval for commercial distribution of a device (e.g., by approval under section 515 of the act), to conduct fundamental research involving human subjects for such scientific purposes as expanding medical knowledge but not for the purpose of obtaining approval for commercial distribution, or to aid diagnosis and treatment by means of use of an investigational device involving a human subject.

(3) An investigational study of a device pursuant to a product development protocol under section 515(f) of the act.

(b) *Studies not subject to this part.* Although studies described in this

paragraph are not subject to this part, they may be subject to other requirements of the act or this chapter, e.g., the requirements in section 515 of the act regarding premarket approval, in Part 58 concerning good laboratory practices for nonclinical studies, in Part 809 regarding in vitro diagnostic products, and in Part 820 of this chapter concerning good manufacturing practices. This part does not apply to:

(1) An experiment involving use of a device in a manner and for a purpose which is included in labeling specifically prescribed for such device by regulation under the act or labeling approved under section 507 or 515 of the act.

(2) Test marketing of a device where the only testing involved is that of consumer preference. (Where consumer preference testing is coupled with or designed to accomplish testing of the safety or effectiveness of the device, the testing is subject to this part.)

(3) The modification of an existing device for purposes other than testing its safety and effectiveness.

(4) The conjunction of two lawfully marketed devices to form a third device unless the purpose of joining the devices is to investigate the safety and effectiveness of the modification. However, this part applies when a study is performed to determine the safety or effectiveness of an approved or marketed device or the joining of several such devices for a new use.

(5) Devices for diagnosis of any human disease or condition (including in vitro diagnostic products) which are not invasive (e.g., do not penetrate or pierce the skin or mucus membranes of the body or the urethra, or the mouth beyond the pharynx, or the anal canal beyond the rectum, or the vagina beyond the cervical os), do not introduce energy into the subject, and are not used in the diagnosis of any disease or other condition in the subject without confirmation by use of a diagnostic device or procedure whose effectiveness for such diagnosis is established.

(6) Any device intended for veterinary use. However, devices ultimately intended for human use, but which are being tested in animals, shall comply with Subpart H of this part and with applicable requirements in Part 58 of this chapter.

(c) *Vital and nonvital investigational devices.* The controls applicable to an investigational device vary, as described in §§ 812.20 and 812.21, depending on:

(1) The importance of the diagnostic or therapeutic uses of the device (i.e., whether a device is vital or nonvital), and

(2) The degree of risk presented by the device to the subjects participating in the study (i.e., substantial risk or low risk).

(d) *Custom devices*—(1) *Requirements.* This part does not apply to a device if all of the following requirements are met:

(i) The device necessarily deviates from generally available devices to comply with the order of a health professional designated in paragraph (d)(2) of this section.

(ii) The device is not generally available in finished form for purchase or for dispensing upon prescription.

(iii) The device is not offered through labeling or advertising by the manufacturer, importer, or distributor thereof for commercial distribution.

(iv) The device is intended (*a*) for use by an individual patient named in the health professional's order and is to be made in a specific form for that patient, or (*b*) to meet the special needs of the health professional in the course of his or her practice.

(v) The device is not generally available to or generally used by other such health professional.

(vi) The device is made of safe and suitable materials (if an implant) and is not being used in a investigational study for the purpose of determining whether the device is safe or effective.

(vii) The Commissioner has not made an administrative determination that the device is subject to this part.

(2) *Health professionals.* A health professional authorized to use custom devices in accordance with this paragraph (d)(2) includes any licensed physician or dentist.

(3) *Examples.* The following examples illustrate the application of this paragraph.

(i) Alteration of an available device (for which sufficient information exists to determine that the device is safe and effective) to meet individual needs of patient or professional: A device that does not represent a new concept, and that is not being tested for safety and effectiveness, is available as a stock item off the shelf; the health professional orders the device and alters it, or has it altered, to meet the patient's, or the health professional's own, individual anatomical features (e.g., dimensions or disability). The basic device that is being customized in this manner is subject to the act and other requirements of this chapter (e.g., registration, classification, performance standards if class II, premarket approval if class III, good manufacturing practice regulations, etc.). However, the individual customizing of the device does not render it an investigational device subject to this part if the requirements of paragraph (d)(1) of this section are met.

(ii) Fabrication of a device (for which sufficient information exists to determine that the device is safe and effective) to meet individual needs of a patient or health professional: A manufacturer fabricates devices for health professionals, or a health professional fabricates devices, according to each individual patient's or health professional's anatomical features (e.g., using X-rays); the device does not involve new implant materials and does not otherwise represent a new concept. As in paragraph (d)(3)(i) of this section, the basic device that is being customized in this manner is subject to the act and other requirements of this chapter. However, the individual customizing of the device does not render it an investigational device subject to this part if the requirements of paragraph (d)(1) of this section are met.

(iii) Testing of a device (for which insufficient information exists to determine whether the device is safe and effective) for general use that will require individual customizing: A device that represents a new concept is being tested for safety and effectiveness; the device, by its nature, requires customization to meet individual patient or health professional anatomical features. The device is subject to this part and other requirements of this chapter and the act; the device is not exempt under this paragraph. (However, see paragraph (d)(3) (i) and (ii) of this section. Once the safety and effectiveness of the device are established, generally by means of premarket approval, the individual customizing of the device to meet patient or health professional needs will not render it again an investigational device subject to this part if the requirements of paragraph (d)(1) of this section are met.)

(iv) Fabrication of a device (for which insufficient information exists to determine whether the device is safe and effective) to meet unusual needs of patient: A health professional wants to order a device fabricated, or to fabricate a device, to meet the special needs of a patient who has unusual anatomical features; the device represents a new concept. The patient's special needs are such that the need for such a device is unlikely to recur, and these needs cannot be met by generally available devices or the devices described in paragraph (d)(3) (i) and (ii) of this section. The device shall meet the requirements of paragraph (d)(1) of this section.

(*a*) If the health professional informs the patient that the device represents a novel concept and is being specially fabricated to meet the patient's needs, the device is exempt from this part and section 514 (performance standards) and 515 (premarket approval) of the act if it is for use involving a single patient. It is subject to other requirements of this chapter and the act.

(*b*) If any health professional wishes to order such a device to meet similar special needs of any subsequent patient(s), the device is subject to the

requirements of this part, this chapter, and the act, unless the device involves application of such commonly recognized principles that its first use was sufficient to establish its safety and effectiveness, in which case the regulations applicable to the device are described in paragraph (d)(3)(ii) of this section.

(v) Fabrication of a device (for which insufficient information exists to determine whether the device is safe and effective) to meet unusual needs of health professional: A health professional wants to order a device fabricated, or to fabricate a device, to meet the special needs of the health professional in the course of his or her practice; the device represents a new concept. The special needs must relate to unusual anatomical features of the health professional (e.g., disability) or special needs of his or her practice that are not shared by other health professionals of the same specialty. The special needs requiring use of the device described in this clause must be the needs of the health professional rather than those of any particular patient. The special needs must be incapable of being met by generally available devices or the devices described in paragraph (d)(3) (i) and (ii) of this section. If the requirements of paragraph (d)(1) of this section are met and the device is for use only by the health professional who ordered it, it is exempt from this part and section 514 (performance standards) and 515 (premarket approval) of the act. It is subject to other requirements of this chapter and the act. If any other health professional wishes to order such a device, the rules in paragraph (d)(3)(iv)(*b*) of this section apply.

(e) *Studies by sole sponsor-investigator.* Sections 812.21(b)(8) (ii) and (iii), 812.46 (a) and (b), and 812.47 shall not apply to an investigational study that involves a sponsor-investigator who is the only investigator.

§ 812.3 Definitions.

(a) "Act" means the Federal Food, Drug, and Cosmetic Act, (sections 201-902, 52 Stat. 1040 et seq., as amended (21 U.S.C. 301-392)).

(b) "Institution" means a person, other than an individual, who engages in the conduct of research on human subjects or in the delivery of medical services to patients as a primary activity or as an adjunct to providing residential or custodial care to humans. The term includes a hospital, retirement home, prison, academic establishment, or device manufacturer. "Facility" as used in section 520(g) of the act is synonymous with the term "institution" for purposes of this part.

(c) "Institutionalized subject" means:

(1) A human subject who is voluntarily confined for a period of more than 24 continuous hours on the premises of, and in the care of, an institution (e.g., a hospital in-patient, or a resident in a retirement home), whether or not that institution is a sponsor of the investigational study; or

(2) A human subject who is involuntarily confined for any period of time in a penal institution (e.g., jail, workhouse, house of detention, or prison), or other institution (e.g., a hospital) by virtue of a sentence under a criminal or civil statute, or awaiting arraignment, commitment, trial or sentencing under such a statute, or by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal facility.

(d) An "institutional review committee" means any board, committee, or other group formally designated by institution for the purposes of reviewing clinical investigations or other types of biomedical research involving humans as subjects, approving the initiation of such investigations or research, overseeing the conduct of such investigations or research, and/or terminating or suspending such investigations or research, when necessary for the protection of subjects. The term has the same meaning as "institutional review board" in other Department regulations.

(e) "Investigational device" means a device that is used in an investigational study involving human subjects, where the purpose of the study is to determine whether the device is safe and/or effective.

(f) "Investigational plan" means a plan or protocol for using an investigational device in an investigational study where such plan or protocol meets the requirements of § 812.25.

(g) "Investigational study" means a study involving human subjects when the study is for the purpose of determining whether a device is safe and/or effective. An investigational study is considered a clinical investigation for purposes of Part 52 of this chapter.

(h) "Investigator" means an individual who actually conducts an investigational study, i.e., under whose immediate direction the investigational device is administered or dispensed to, or used involving, a subject.

(i) "Monitor," when used as a noun, means a designated individual selected by a sponsor or contract research organization to oversee the progress of an investigational study. The monitor may be a full-time employee of a sponsor or contract research organization or a consultant to the sponsor or contract research organization. "Monitor," when used as a verb, means the act of overseeing the progess of an investigational study in accordance with § 52.29 of this chapter.

(j) "Person" includes an individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit thereof, and any other legal entity.

(k) "Sponsor" means a person who initiates a clinical investigation, but who does not actually conduct the investigation, i.e., the investigational device is administered or dispensed to or used involving a subject under the immediate direction of another individual. A person other than an individual (e.g., corporation or government agency) that uses one or more of its own employees to conduct a clinical investigation it has initiated is considered to be a sponsor (not a sponsor-investigator), and the employees are considered to be investigators.

(l) "Sponsor-investigator" means an individual who both initiates and actually conducts, alone or with others, an investigational study, i.e., under whose immediate direction the investigational device is administered or dispensed to, or used involving, a subject. The term does not include any person other than an individual, e.g., corporation or agency. The obligations or a sponsor-investigator under this part include those of an investigator.

(m) "Subject" means an individual who is or becomes a participant in an investigational study, either as a recipient of the investigational device or as a control. A subject may be either a human being in normal health or a patient to whom the investigational device might offer therapeutic benefit or as to whom it might provide diagnostic information.

(n) "Substantial risk" is a risk that may result in death or may produce morbidity (including disfigurement, permanent injury, or interference with the capacity to continue employment), require operation or reoperation, require extension of hospitalization (beyond that expected for the condition being treated), require rehospitalization, or cause increased invalidism; or, at the least, produce moderate personal discomfort and the need for extensive outpatient medical care.

(o) "Low risk" means a risk other than a substantial risk. It includes a situation in which no risk is presented, i.e., there is no possibility of injury to a subject's health or his or her rights.

(p) "Transitional period" applies only to those devices (other than devices that were regarded as new drugs or antibiotic drugs) which (1) were either in commercial distribution before May 28, 1976, or are judged by the Food and Drug Administration to be substantially equivalent to a device in commerical distribution before that date, and (2) are classified in class III under section 513(d) of the act. The transitional period for a particular device extends from May 28, 1976, to either (i) the last day of the 30th calendar month after the date the classi-

fication of that device into class III becomes effective, or (ii) the 90th day after the date a regulation requiring the submission of a premarket approval application with respect to that device is promulgated, whichever occurs later.

(q) "Vital investigational device" means a device intended to support or sustain life or intended for surgical implant into the body (or a diagnostic device, e.g., an in vitro diagnostic product, which provides data which might reasonably be considered life supporting or vital to the care of the subject), or a device whose failure could result in permanent injury to the subject.

(r) "Nonvital investigational device" refers to any device other than a vital investigational device.

§ 812.5 General qualifications for an exemption.

A shipment of an investigational device is exempt from any or all of the otherwise applicable requirements of the act enumerated in § 812.1(c) if all of the following conditions are met:

(a) The label of the device bears the following: The name and place of business of the manufacturer, packer, or distributor in accordance with § 801.1 of this chapter; the quantity of contents; and the following statement (or, where appropriate, a statement prescribed in § 809.10(c) of this subchapter for an in vitro diagnostic product): "Caution—Investigational device. Limited by Federal (or United States) law to investigational use."

(b) The labeling of the device is not false or misleading in any particular, does not represent that the device is safe and/or effective for the purpose(s) for which it is being investigated, and describes all relevant hazards, contraindications, adverse effects, interfering substances or devices, and precautions suggested by prior investigations and experience with the investigational device or any related device.

(c) If the shipment is for an investigational study involving human subjects:

(1) An application for investigational device exemption (or notification) covering that shipment was submitted by the sponsor under Subpart B of this part.

(2) The requisite time has elapsed following the date of receipt of the application (or notification) by the Food and Drug Administration to permit the investigational study to begin under §§ 812.20(c) or 812.30(b), or the Commissioner has approved the application where required by § 812.30 (a)(2).

(3) The Commissioner has not disapproved the application (or notification) or withdrawn the exemption.

(4) Each shipment of the device is made in accordance with the commitments in the application (or notification) and any conditions imposed in the Commissioner's approval pursuant to § 812.30.

(5) The sponsor has complied with the requirements of this part and Part 52 of this chapter; any institutional review committee that is to review and approve the investigational study for which shipment is made has complied with Food and Drug Administration regulations regarding standards for such committees; and the investigator(s) to whom the shipment is to be made has complied with Food and Drug Administration regulations regarding the obligations of clinical investigators.

(d) If the shipment is intended solely for tests in laboratory animals, or for other tests that do not involve human subjects, the requirements of Subpart H of this part and applicable requirements in Part 58 of this chapter have been met.

(e) If the shipment is to be imported into or exported from the United States, the requirements of § 812.19 have been met.

§ 812.10 Petitions for waiver of requirements.

(a) Any person subject to any requirement under this part may petition the Commissioner for a waiver of such requirement. Such a petition shall be submitted in accordance with § 10.30 of this chapter and shall set forth the basis for the petitioner's belief that compliance with the requirement is not necessary to achieve the objectives of this part and, where appropriate, any alternative means to achieve the objective of the requirement from which the waiver is sought.

(b) The Commissioner may, at the Commissioner's discretion, grant a petition for a waiver submitted under this section if he finds that compliance with the requirement from which the waiver is sought is not necessary to achieve the objectives of this part and, where appropriate, that the proposed alternative means will acheive the objective of the requirement from which the waiver is sought.

(c) The person who submits a petition under this section shall continue to be subject to the requirement from which the waiver is sought unless and until the Commissioner grants the petition.

§ 812.12 Information previously submitted.

Wherever this part requires the submission to the Food and Drug Administration of information or data that were previously submitted in accordance with this part or other parts of this chapter, the information or data need not be resubmitted but may be incorporated by reference.

§ 812.19 Requirements applicable to importers and exporters of investigational devices.

(a) Any person who imports or offers for importation into the United States an investigational device shall assure that all of the following requirements are met:

(1) The labeling of such device complies with § 812.5 (a) and (b).

(2) If the device is for an investigational study involving human subjects:

(i) The importer of such shipment is an agent in the United States of the foreign exporter or is the ultimate consignee, and the foreign exporter or the ultimate consignee has, before such shipment, completed and submitted to the Food and Drug Administration an application for an investigational device exemption in accordance with § 812.21 or, when permitted, a notification in accordance with § 812.20 and acts as the sponsor of the investigational study to assure compliance with applicable requirements of this chapter.

(ii) The requisite time has elapsed following the date of receipt of the notification or application by the Food and Drug Administration to permit the investigational study to begin under §§ 812.20(c) or 812.30(b), or the Commissioner has approved the application, where required by § 812.30(a)(2).

(iii) The Commissioner has not disapproved the application (or notification) or withdrawn the exemption

(b) (1) A device exported from the United States to a foreign country that does not comply with requirements of the Act shall not be deemed adulterated or misbranded if:

(i) The device conforms to the specifications of the foreign purchaser.

(ii) The device complies with the laws of the country to which it is being exported.

(iii) The label on the outside of the shipping package indicates that the device is intended for export.

(iv) The device is not sold or offered for sale in domestic commerce.

(v) The device complies with any applicable requirements of paragraph (b)(2) of this section.

(2) If the following requirements in addition to the requirements of paragraph (b)(1) of this section are met, any person may export from the United States for an investigational study involving human subjects a device that is subject to a performance standard in effect under section 514 of the act and that does not comply with such standard; or that is required to have in effect an approved application for premarket approval under section 515 of the act, and that is not currently subject to a transitional period, and that does not have in effect an approved application; or that is subject to an exemption under this part from

sections 514 or 515 of the act; or that is subject to a banned device regulation under section 516 of the act:

(i) The exporter or any other person obtains documentation from the government of the foreign country that the export of the device to that country is approved by such government based upon adequate information about the device.

(ii) The exporter or other person submits to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, a copy of this documentation, an explanation of why the proposed export of the device is not contrary to public health and safety, and a request for a determination that the export is not contrary to public health and safety.

(iii) The Commissioner has determined that the export of the device to the foreign country is not contrary to the public health and safety and has notified the exporter or other person of this determination.

(3) The Commissioner may by order disapprove the export of the device under this section if he determines that such export is contrary to the public health and safety. Such an order may provide that export will be permitted if there is compliance with this part.

Subpart B—Notifications and Applications for Exemption for Investigational Studies Involving Human Subjects

§ 812.20 Notification.

(a) *When submitted.* (1) Except as provided in § 812.21(a) (ii) and (iii), a notification shall be submitted when:

(i) A vital investigational device is to be used in an investigational study that presents low risk to human subjects, or

(ii) A nonvital investigational device is to be used in an investigational study.

(2) The sponsor of a study described in paragraph (a)(1) of this section shall submit to the Food and Drug Administration three copies of a completed "Notification of Intent to Investigate a Device" and of all materials required by paragraph (b) of this section to accompany such a notification, bound and contained in volumes of reasonable size, by registered mail or hand delivery to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910. The outside wrapper shall be labeled "Notification of Intent to Commence Testing an Investigational Device." Any subsequent reports and correspondence concerning an application shall be submitted in triplicate by registered mail or hand delivery to this address.

(b) *Contents.* A notification shall include the name and address of the sponsor, the name and description of the investigational device; a summary of the investigational plan; location(s) of the study; an agreement to comply with Subpart C of this part and Part 52 of this chapter; written procedures established by the sponsor for monitoring the investigational study under Part 52 of this chapter (unless the study involves a sponsor-investigator who is the only investigator); institutional review committee(s) approval of the study in accordance with § 52.25 of this chapter and agreement to comply with Food and Drug Administration regulations on institutional review committees; a statement from each institutional review committee involved, signed by the chairman, assessing whether the device is vital or nonvital and the degree of risk to which the subjects will be exposed; and, in accordance with § 812.21(b)(7), the name(s) of investigators and the agreement of each investigator to comply with Food and Drug Administration regulations regarding obligations of clinical investigators. A notification shall be signed by an authorized representative of the sponsor.

(c) *FDA review.* After receipt of a notification, the Food and Drug Administration will send the sponsor a letter as soon as possible informing the sponsor of the date of receipt.

(2) The procedures in §§ 812.30 through 812.35 for approval or disapproval of an application for an investigational device exemption and for withdrawal of an exemption shall apply to a notification, except as provided in paragraph (d) of this section.

(d) *When study may begin.* Where the sponsor states that a nonvital investigational device is to be used in an investigational study that presents low risk to human subjects, and the Food and Drug Administration's letter informing the sponsor of receipt of the notification does not also inform the sponsor that an application is required rather than a notification, the exemption takes effect and the study may begin after the sponsor's receipt of the letter. Otherwise the exemption does not take effect and the study shall not begin until the notification is approved or deemed approved under § 812.30.

(e) *Other requirements.* Requirements in this subchapter (other than § 812.21) applicable to an application for investigational device exemption shall apply to a notification. Requirements in this subchapter for sponsors, investigators, and institutional review of clinical investigations apply to studies under an investigational devices exemption obtained under this section by a notification.

§ 812.21 Application.

(a) *When submitted.* (1) An application shall be submitted when:

(i) A vital investigational device is to be used in an investigational study that presents substantial risk to human subjects;

(ii) A sponsor of a study described in § 812.20(a) elects to submit an application instead of a notification; or

(iii) The Food and Drug Administration notifies the sponsor under § 812.20(d) that an application is required.

(2) The sponsor of an investigational study described in paragraph (a)(1) of this section shall submit to the Food and Drug Administration a completed "Application for an Investigational Device Exemption" that has been signed by an authorized representative of the sponsor. Three copies of the application and any material required to accompany the application, bound and contained in volumes of reasonable size, shall be submitted by registered mail or hand delivery to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910. Any subsequent reports, any correspondence concerning an application and any supplemental application submitted under § 812.39 also shall be submitted in triplicate by registered mail or hand delivery to this address. The outside wrapper of any application or supplemental application shall include the statement "Application or Supplemental Application for Investigation Device Exemption" and the outside wrapper of any reports or correspondence shall include the statement "Regarding an Investigational Device Exemption."

(b) *Contents.* An application for an investigational device exemption shall include: the sponsor's name, address, telephone number, the name of the sponsor's representative to whom communications should be sent, the location(s) where the study will be conducted, and the following information:

(1) The best available descriptive name of the device and a brief statement of its intended use(s) and how it is to be used.

(2) A description of the important components, ingredients, and properties and a description of the principle(s) of operation of the device and any anticipated changes in the device that may occur in the course of the study, in enough detail so that a scientist or physician familiar with the general type of device, but not necessarily an expert with regard to the specific device, can make a knowledgeable judgment about the anticipated safety and effectiveness of the device in the proposed investigational study.

(3) A description of those methods, facilities, and controls used for the manufacture, processing, packing, storage, and, where appropriate, in-

stallation of the device, in enough detail so that a person generally familiar with the manufacture of the general type of device can make a knowledgeable judgment about the safety and effectiveness of the device in the proposed investigational study.

(4) (i) A statement by the sponsor which tells the location of each institutional review committee that is to review a portion of the study (see § 812.42) and indicates that each committee has received a copy of an investigational plan (that meets the requirements of § 812.25), a report of prior investigations of the device (that meets the requirements of § 812.27), and any separate protocols or other materials required by such committee, and a statement that the committee(s) has approved the study.

(ii) If the study or any portion of the study is not to be reviewed by an institutional review committee at one or more locations where the study is to be conducted, a request for waiver of the institutional review requirement of § 812.42 that includes the sponsor's explanation (and supporting data) of why a committee is not necessary either for protecting the subjects or for ensuring the reliability of the scientific data.

(iii) A copy for the Food and Drug Administration of the investigational plan (that meets the requirements of § 812.25), the report of prior investigations of the device (that meets the requirements of § 812.27), and any separate protocols or other materials submitted to an institutional review committee.

(5) A statement from every institutional review committee involved in the study, signed by the chairman, that the committee has approved the investigational plan and has reviewed the report of prior investigations of the device, that the committee will review the study, in accordance with Food and Drug Administration regulations on institutional review, for its duration periodically at intervals appropriate to the degree of risk but not to exceed 1 year, and that it will review reports of unexpected adverse effects on a timely basis for the purpose of determining whether the study should be continued.

(6) A copy of all forms and informational materials to be given to human subjects including those to be used to obtain informed consent as required by Subpart F of this part. (The copy may be appended to the investigational plan.)

(7) A copy of the agreement(s), which includes a statement of the investigator's curriculum vitae, to comply with Food and Drug Administration regulations regarding the obligations of investigators, signed by each investigator who will be taking part in the investigational study as required by § 812.43(b).

(8)(i) A copy of all informational material, including labels and other labeling. Such informational material shall meet the requirements of § 812.5.

(ii) Except where the application is submitted by a sponsor-investigator who is the only investigator, a description of the scientific training and experience that the sponsor considers appropriate to qualify individuals as suitable experts to investigate the safety and effectiveness of the device, in view of the investigational plan, the report of prior investigations of the device, and what is known about the device.

(iii) Except where the application is submitted by a sponsor-investigator who is the only investigator, written procedures established by the sponsor for monitoring the investigational study in compliance with Part 52 of this chapter.

(iv) The name and a summary of the training and experience of the monitor(s) of the study under §§ 52.28 and 52.29 of this chapter.

(9) A statement to the best of the sponsor's knowledge as to whether any institutional review committee has ever disapproved or terminated any investigational study of the device and the reasons for such action.

(10) A statement that the sponsor will comply with the requirements applicable to sponsors under this chapter.

(11) A statement by a sponsor notifying the Food and Drug Administration of his intent, if any, to charge investigators and subjects for the device. (The Food and Drug Administration's failure to object to such a statement in an application is not authorization to begin commercial distribution of the device.)

(12) A statement by the sponsor of the reasons for requesting a waiver of the requirement that a study shall not begin before the expiration of 30 days after the Food and Drug Administration has received an application meeting the requirements of this subpart, if such a waiver is requested.

(13) An environmental analysis report meeting the requirements of Part 25 of this chapter when requested by the Food and Drug Administration after receipt of an application under this section.

(14) Any other information relevant to review of the applications, required by the Food and Drug Administration to be submitted.

(c) The sponsor may refuse to provide any information required by the Food and Drug Administration under paragraph (b)(14) of this section and treat the request as a disapproval of the application for purposes of requesting a hearing under § 812.30. In the event a sponsor fails to respond to a request for information within the time prescribed in the request, the Food and Drug Administration may treat the application as withdrawn and so notify the sponsor.

§ 812.25 Investigational plan.

(a) The investigational plan for the investigational study of a device shall include the following:

(1) A statement of the intended use of the device;

(2) A general outline of the plan and any anticipated or foreseeable changes or variations in the plan that may be made based on experience gained in the study;

(3) A statement describing the objectives of the investigational study;

(4) A justification for commencing the study, taking into account the report of prior investigations of the device;

(5) The expected duration of the investigational study;

(6) Identification of the investigator or investigators, the facilities where the study will occur, and any institutional review committees that will supervise the study;

(7) The patient population in which the device will be used (in terms of age, sex, and condition) and the size of such population;

(8) A justification for using such patient population and of the size of such population;

(9) A description of records to be maintained, and the reports to be made, by the investigator(s) and the sponsor to assure compliance with the plan and enable the progress of the investigation and the safety and effectiveness of the device to be reviewed by the sponsor, any institutional review committee, and the Food and Drug Administration;

(10) The plan for obtaining informed consent from subjects, including copies of all forms and informational materials to be provided to subjects; and

(11) A description of the important components, ingredients, properties and principle(s) of operation of the device in accordance with § 812.21(b)(2) and of any anticipated changes in the device that may occur in the course of the study.

(b) The procedures and conditions in the investigational plan may vary depending on (1) the scope and duration of the investigational study, (2) the number of human subjects who are to be involved in the study, (3) the need to permit changes to be made in the device during the study conducted in accordance with the plan, and (4) the purpose of the study, e.g., whether the study is designed for the purpose of developing data to obtain approval for the commercial distribution of the device.

(c) Where an investigational study is for the purpose of developing data to obtain premarket approval of the

device, the Food and Drug Administration will not ordinarily regard an investigational plan as providing data that will support an application for such approval unless it provides for more than one independent qualified investigator to study an adequate number of subjects in accordance with this chapter.

(d) Any summary of an investigational plan required under §§ 812.20 or 812.21 shall include an adequate and accurate summary of each of the elements of an investigational plan under paragraph (a) of this section.

(e) The investigational plan may provide for additional animal tests to be made during the course of the study.

§ 812.27 Report of prior investigations of a device.

(a) The report of prior investigations of a device, to be submitted to an institutional review committee and to the Food and Drug Administration, shall include information concerning prior investigations of the device that is adequate to justify the clinical testing involving human subjects as proposed in the investigational plan under § 812.25.

(b) The report of prior investigations of a device shall include:

(1) A bibliography of any publications relevant to the investigational study and copies of the significant publications both adverse and supporting.

(2) Any other unpublished information available to the sponsor, both supporting and adverse, information relating to nonclinical investigations of the device, including appropriate tests in animals and tests in vitro, and prior clinical investigations of the device or clinical experience with the device from commercial marketing, whether in the United States or in foreign countries, in sufficient detail so that a scientist or physician familiar with the general type of device, although not necessarily an expert with regard to the specific device, could make a knowledgeable judgment about the safety and efffectiveness of the device in the proposed investigational study.

(3) If information on nonclinical investigations is provided and the device is subject to the good laboratory practice regulations in Part 58 of this chapter, either a statement that all nonclinical investigations have been conducted in compliance with such regulations or, if such investigations have not been conducted in compliance with such regulations, a detailed description of all differences between the practices used in the investigations and those required in the regulations.

(c) Prior investigations of a device shall not be considered adequate to justify an investigational study involving human subjects unless the conditions (except for the subjects involved) of the prior investigations of the device are comparable to the conditions of the proposed investigational study.

(d) Except where tests on laboratory animals would be unnecessary, e.g., where in the judgment of the institutional review committee and the Food and Drug Administration there have been adequate in vitro tests or there is ample literature concerning prior clinical investigations or clinical experience, prior investigation of a device will be considered adequate to justify the investigational use of the device in human subjects only if:

(1) The device has been tested in laboratory animals and these tests show that it is reasonably safe to begin an investigational study involving human subjects; and

(2) The report of prior investigations of the device provides sufficient details concerning such investigations to permit scientific evaluation.

(e) Where the device consists of several components or ingredients that may have a significant effect on the safety or effectiveness of the device, and information concerning such components or ingredients is needed to justify the investigational use of the device in human subjects, the report of prior investigations of a device shall include a summary of the same type of information relating to these components and ingredients required for the device by paragraph (b) (1) and (2) of this section.

§ 812.30 Food and Drug Administration review of and action on an application.

(a) Upon receipt of an application for an investigational device exemption submitted in accordance with this subpart, the Food and Drug Administration will notify the sponsor of the date of such receipt and inform the sponsor that the investigational study may not begin:

(1) Until 30 days after the date of receipt of the application by the Food and Drug Administration, unless the agency has decided to waive the 30-day time requirement and so informs the sponsor; or

(2) In the case of an application for an exemption from the banned device provisions of sections 516 of the act, until the Food and Drug Administration approves the application under this paragraph and notifies the sponsor of the approval.

(b) An application for an investigational device exemption (other than an application described in paragraph (a)(2) of this section), shall be deemed to be approved on the 30th day after receipt of the application by the Food and Drug Administration unless, on or before such day, the Commissioner finds that the application does not meet the requirements of this part and other provisions of this chapter concerning clinical investigations (e.g., Part 52 of this chapter) and by order disapproves the application for any of the grounds in paragraph (c) of this section and states his reasons therefor, or finds the application deficient and requests additional information, or suggests revisions. If the Commissioner requests additional information or suggests revisions, the sponsor may treat the application as disapproved for purposes of requesting a regulatory hearing under Part 16 of this chapter. The Commissioner may approve an application with modifications, e.g., subject to conditions.

(c) The Commissioner may by order disapprove an application if he makes any of the following findings:

(1) The application contains an untrue statement of a material fact or omits material information required by §§ 812.20 or 812.21.

(2) The report of prior investigations of the device is inadequate to support a conclusion that it is reasonably safe to begin or continue the proposed investigational study.

(3) There is reason to believe that the device may be unsafe or ineffective when used for the purpose or in the manner for which it is to be investigated.

(4) The investigational plan described in the application is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the device is safe or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, and, where appropriate, installation of the device do not adequately ensure the safety and effectiveness of the device.

(6) The sponsor's proposed use of the device is not intended solely for an investigational study because it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part or Part 52 of this chapter.

(7) There has not been compliance with the requirements prescribed in this part or applicable requirements in Part 52 or other regulations in this chapter regarding responsibilities of sponsors, clinical investigators, and institutional review boards, respectively.

(8) The application contained a nonclinical laboratory study of a device that is subject to the good laboratory practice regulations in Part 58 of this chapter, and the study was not conducted in compliance with such regulations, or any differences between the practices and in conducting the study and those required in the regulations were not described in detail.

(9) The proposed investigational study subjects human subjects to undue risks. In assessing risks, the

Commissioner shall consider, among other things, the factors enumerated in § 812.35(a)(11).

(d) The Commissioner shall notify the sponsor of an approval of an application with modifications, of an approval under paragraph (a)(2) of this section, or of a disapproval. The notification shall contain the order of approval or disapproval and a complete statement of the reasons for the order. A notification of approval with modifications or disapproval shall advise the sponsor that the sponsor has recourse to an opportunity for a regulatory hearing under Part 16 of this chapter.

(e) The Commissioner may, in the Commissioner's discretion, decide not to disapprove an application for which there are grounds for disapproval if the facts do not lead the Commissioner to conclude that the risks outweigh the benefits to subjects, considering the factors enumerated in § 812.35(a)(11).

(f) The Commissioner shall make publicly available a summary of the information on the safety and effectiveness of a device that was submitted under this part and was the basis for an order under paragraph (a)(2) of this section approving an exemption from a banned device regulation or under paragraph (c) of this section disapproving an application. The summary shall be made publicly available, on request, upon issuance of the order and shall include information on any adverse effects of the device on health.

§ 182.35 Withdrawal of an exemption.

(a) The Commissioner may by order withdraw an exemption granted under this part, if he makes any of the following findings:

(1) The application for such exemption or any subsequent report contains an untrue statement of a material fact or omits material information required by this part (e.g., §§ 812.20, 812.21, or 812.39) or Part 52 of this chapter.

(2) The report of prior investigations of the device is inadequate to support a conclusion that it is reasonably safe to continue the investigational study.

(3) There is reason to believe that the device may be or is unsafe and/or ineffective when used for the purpose or in the manner for which it is investigated.

(4) The investigational plan described in the application or notification is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the device is safe and/or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, and, where appropriate, installation of the device do not adequately ensure its safety and effectiveness.

(6) The investigational study is not being conducted in accordance with the investigational plan submitted to the Food and Drug Administration or the institutional review committee; or any change in or deviation from the investigational plan was not approved as required by § 812.39.

(7) The sponsor's use of the investigational device is not intended solely for an investigational study, because it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part or Part 52 of this chapter.

(8) The sponsor has unduly prolonged an investigational study without submitting an application for premarket approval of the device as required by § 812.46(d).

(9) The investigational study is not being conducted in compliance with the requirements of this part or applicable requirements of Parts 52, 54, or 56 of this chapter regarding responsibilities of sponsors, clinical investigators and institutional review boards, respectively.

(10) The application contained a nonclinical laboratory study of a device that is subject to the good laboratory practice regulations in Part 58 of this chapter, and the study was not conducted in compliance with such regulations, or any differences between the practices used in conducting the study and those required in the regulations were not described in detail.

(11) The proposed investigational study subjects human subjects to undue risks. In assessing risks, the Commissioner shall consider, among other things, whether:

(i) The risks to the subject are so outweighed by the sum of the potential benefits to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(ii) The rights and welfare of any such subject will be or have been adequately protected;

(iii) Legally effective informed consent will be or has been obtained by adequate and appropriate methods in accordance with the provisions of Subpart F of this part;

(iv) The conduct of the activity will be or has been reviewed at timely intervals by the institutional review committee, the sponsor, or both.

(12) The process of review or monitoring undertaken by the institutional review committee that is monitoring the study is inadequate.

(b) An order withdrawing an exemption shall include a complete statement of the reasons for the Commissioner's action. Such order shall be issued only after the sponsor has been afforded an opportunity for a regulatory hearing under Part 16 of this chapter, except that the order may be issued before providing an opportunity for such hearing if the Commissioner determines that the continuation of testing under the exemption concerning which the order is to be issued will result in an unreasonable risk to the public health or safety.

(c) The Commissioner may, in the Commissioner's discretion, decide not to withdraw an exemption for which there are grounds for withdrawal if the facts do not lead the Commissioner to conclude that the risks outweigh the benefits to subjects, considering the factors in paragraph (a)(11) of this section.

(d) An exemption that has been withdrawn under this section may be reinstated if the sponsor satisfies the Commissioner that the grounds for withdrawal no longer apply.

(e) The Commissioner shall prepare a summary of the information on the safety and effectiveness of a device that was submitted under this part and was the basis for an order under paragraph (a) of this section withdrawing an exemption that permitted an investigational study of the device. The summary shall be made publicly available, on request, upon issuance of the order and shall include information on any adverse effects on health of the device.

§ 812.38 Confidentiality of data and information in an application.

(a) [Reserved]

(b) The availability for public disclosure of all data and information in the Food and Drug Administration file concerning the application or notification shall be handled in accordance with the provisions established in § 314.14 of this chapter for the confidentiality of data and information in new drug applications.

(c) Notwithstanding the provisions of § 314.14 of this chapter, the Food and Drug Administration shall disclose upon request to an individual on whom an investigational device has been used a copy of any adverse reaction report relating to such individual as a result of such use.

§ 812.39 Supplemental applications and submissions concerning applications.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, information contained in an application submitted under § 812.21 or notification submitted under § 812.20 may be updated by means of a report to the Food and Drug Administration under § 812.55.

(b)(1) Whenever the sponsor or any investigator participating in an investigational study wishes to implement a change in, or deviation from, the investigational plan submitted to the Food and Drug Administration or an institutional review committee that may affect the validity of the study or

the rights or safety of the human subjects under the criteria in paragraph (b)(3) of this section, the investigator shall obtain the prior review and approval of any institutional review committee involved in the study. If the sponsor is amending an application rather than a notification, he shall also submit to the Food and Drug Administration a supplemental application describing the proposed change or deviation and justification therefor. Except as provided in paragraph (b)(2) of this section, the sponsor shall submit the supplemental application before the change or deviation is implemented, with a copy of the approval of the change or deviation by any institutional review committee evidenced by a statement from the chairman. The sponsor shall not permit the change or deviation to be implemented unless and until the supplemental application is approved or deemed approved by the Food and Drug Administration under § 812.30(b), except as described in paragraph (b)(2) of this section.

(2) When a change or deviation is necessary to eliminate or reduce an apparent immediate hazard to the safety of a human subject who is already participating in the investigational study, the investigator and the sponsor are not required to comply with the prior approval requirements of paragraph (b)(1) of this section. The investigator shall instead notify any institutional review committee of the change or deviation and the justification therefor as soon as possible but in no event later than 5 days after the change or deviation has been implemented. The sponsor shall instead notify the Food and Drug Administration as soon as possible but in no event later than 5 days after learning of the change or deviation.

(3) The following changes in, or deviations from, an investigational plan illustrate some of the situations in which prior review and approval are required under paragraph (a) of this section:

(i) A significant change in the administration of, or where appropriate, in the application or frequency of, or a change in the method of, administration or use of the investigational device.

(ii) A significant change in the number of subjects participating in the study at one time or cumulatively.

(iii) The utilization of subjects with medical conditions unrelated to, but possibly affecting, the scope or validity of the study, e.g., use of terminally ill patients in an investigation unrelated to the terminal illnesses.

(iv) The utilization of human subjects who require special consideration or protection and who are not listed specifically in the plan, e.g., children, pregnant women, or mentally disabled individuals.

(v) The administration of concomitant or concurrent therapy where it is likely that an interaction or interference with the investigational device might occur.

(c) The sponsor shall submit to the Food and Drug Administration the signed statements required under §§ 812.43(b) and 812.21(b)(5) for any additional investigators and institutional review committees who are added to an investigational study after submission of a notification under § 812.20 or an application for an investigational device exemption under § 812.21(b). Any such additional statement shall be submitted before an investigator may begin participation in the investigational study except that:

(1) The sponsor may request Food and Drug Administration approval to add additional investigators to the study by rapid communication techniques before submitting the signed statements.

(2) When there exists a life-threatening situation that necessitates the use of an investigational device, prior notification is not required.

(3) When a study is being conducted under a notification pursuant to § 812.20, prior notification is not required.

(d) The sponsor shall submit to the Food and Drug Administration any additional forms, or revisions in forms, or other informational materials to be provided to human subjects and any additional informational materials, or revisions in such informational materials, supplied to investigators, which had not previously been submitted to the Food and Drug Administration. The sponsor shall submit such forms or materials to the Food and Drug Administration at the same time that they are provided to investigators.

Subpart C—Sponsor Responsibilities in Investigational Studies Involving Human Subjects

§ 812.40 General.

The requirements of this subpart are applicable to sponsors of investigational studies, including sponsor-investigators, except as specifically provided otherwise in this chapter, e.g., § 812.2(e). Sponsors also are subject to other requirements under this part and Parts 52 and 58 of this chapter.

§ 812.42 Review of the investigational study by the Food and Drug Administration and the institutional review committee.

(a) Before any human subject is allowed, or requested formally to consent to, participation in the investigational study, the sponsor shall ensure the following:

(1) The requirements of § 52.25 of this chapter concerning assurance of institutional review are met, where institutional review is required under paragraphs (b) through (d) of this section.

(2) The sponsor has both submitted a notification or application for an investigational device exemption to the Food and Drug Administration and obtained an exemption from the Food and Drug Administration in accordance with §§ 812.20(d) or 812.30(b).

(b) Except as provided in paragraph (d) of this section, the Food and Drug Administration will not accept any notification or application for an investigational device exemption unless the investigational study has been reviewed and approved, and remains subject to continuing review, by an institutional review committee meeting the requirements of Food and Drug Administration regulations.

(c) Except as provided in paragraph (d) of this section, the Food and Drug Administration will not consider in support of an application for a research or marketing permit (as defined in § 52.3(b) of this chapter) any data or information that has been derived from an investigational study unless that study had been approved by, and was subject to initial and continuing review by an institutional review committee meeting the requirements of Food and Drug Administration regulations. The determination that an investigational study may not be considered in support of an application for a research or marketing permit does not, however, relieve the applicant for such a permit of any obligation under any other applicable regulation to submit the results of the investigation to the Food and Drug Administration.

(d) (1) Except as provided in paragraph (d)(2) of this section, the Food and Drug Administration may waive the requirement for institutional review on request of a sponsor of an application for an investigational device exemption (but not a notification), if the Commissioner determines that the requirement is not necessary either for protecting the subjects involved or for assuring the validity or reliability of the scientific data. Any applicant for an investigational device exemption or other research or marketing permit may include a request for waiver, with supporting information, in the application.

(2) The requirement for institutional review will not be waived in any of the following situations:

(i) When the clinical investigation involves institutionalized human subjects.

(ii) When the clinical investigation is conducted on the premises of an institution that has an institutional review committee meeting the requirements of Food and Drug Administration regulations.

(iii) When the Food and Drug Administration determines that the risks to the subjects justify such review.

§ 112.43 Selection of investigators.

(a) The sponsor shall select as investigators only individuals who, because of their training or experience, qualify as suitable experts to investigate the safety and effectiveness of the device (in view of the investigational plan, the report of prior investigations of the device, and what is known about the device) and who have the ability and commitment to comply with the investigational plan and Food and Drug Administration regulations regarding the obligations of investigators.

(b) The sponsor shall obtain from each investigator who will participate in the investigational study a signed statement for submission to the Food and Drug Administration under §§ 812.20(b) or 812.21(b)(7), which includes the following information:

(1) A statement of the investigator's education and experience in sufficient detail to allow determination of the investigator's qualifications for investigating the device. Such statement shall include:

(i) Colleges, universities, and medical or other professional schools attended, dates of attendance, degrees, and dates on which degrees were awarded.

(ii) Postgraduate medical or other professional training with dates, names of institutions, and nature of training.

(iii) Teaching or research experience, with dates, names of institutions, and a brief description of the experience.

(iv) Experience in medical practice or other professional experience, with dates, institutional affiliations, and nature of practice or other professional experience.

(v) A representative list of pertinent medical or other scientific publications of the investigator, with titles of articles, names of publications, and volume, number, page, and date.

(vi) Specific experience with the device to be investigated (when available), including date, amount, and description of experience, including the name of the institutions where investigated.

(2) An agreement to comply with the investigational plan Food and Drug Administration regulations regarding the obligations of investigators, and any conditions for approval of an application for an investigational device exemption imposed under § 812.30.

(3) An agreement that any use of the device involving human subjects will be under the investigator's supervision or under the supervision of another investigator who is responsible to him or her and who is named by the investigator in his or her signed statement under paragraph (b)(5) of this section.

(4) A statement as to whether an investigational study or other research by such investigator has been discontinued on the order of a sponsor, an institutional review committee, or the Food and Drug Administration.

(5) The name of any other investigator who will participate in the investigational study, who is under the investigator's supervision, and who is responsible to him or her, with information required in paragraph (b) (1), (2), and (4) of this section.

§ 812.45 Control over the investigational device; facilities.

The sponsor shall permit the investigational device to be shipped only to investigators who have signed statements which the sponsor has submitted to the Food and Drug Administration under §§ 812.20(a), 812.21(b)(7) or 812.39(c), and the sponsor shall comply with the requirements of Subparts C and F of Part 52 of this chapter.

§ 812.46 Monitoring the investigational study.

(a) The sponsor (other than a sponsor-investigator who is the only investigator) shall comply with the requirements of § 52.28 of this chapter in selection of and directions to trained and qualified individual(s) to monitor the progress of the investigational study. The monitor shall comply with the requirements of § 52.29 of this chapter.

(b) If the sponsor (other than a sponsor-investigator who is the only investigator) discovers that any investigator participating in the investigational study has not complied with the requirements of this part, other Food and Drug Administration regulations regarding the obligations of investigators, or such investigator's agreement under § 812.43(b), the sponsor shall secure such investigator's compliance or discontinue shipments to such investigator. The sponsor may require such investigator to make appropriate disposition of the device in accordance with § 52.114 of this chapter and may suspend or terminate any study being performed by such investigator for the sponsor.

(c) (1) The sponsor shall undertake a special investigation whenever learning of any serious adverse effect, death, or life-threatening problem that may reasonably be regarded as device-related (i.e., caused by or associated with the investigational device) and was not previously anticipated in nature, severity, or degree of incidence in the written information provided to investigators and to the Food and Drug Administration by the sponsor regarding the device. The sponsor shall report the results of the special investigation to other investigators, and to the Food and Drug Administration under § 812.55(d) within 10 working days after the sponsor learns of the effect, death, or problem.

(2) Where the sponsor learns from the special investigation that the serious adverse effect, death, or medical problem is device-related and presents unreasonable risk to subjects involved in the study, the sponsor shall suspend the study as soon as possible but in no event later than 5 working days after sufficient information is available to warrant suspension, except that if an institutional review committee or the Food and Drug Administration has ordered suspension by an earlier date, this earlier date shall apply. Suspension of an investigational study is warranted when the potential risks of continuation of the study outweigh the possible benefits. Suspension of the investigational study for purposes of this section means that no new subjects may be added to the study, and only those subjects whose medical needs require the continued use of the device may receive the device. Where the Food and Drug Administration regards a serious adverse effect, death, or medical problem as device-related and as presenting unreasonable risk to subjects, the agency may order the sponsor to suspend the study. The sponsor shall suspend the study as soon as possible but in no event later than the date prescribed in such request or order. Once the study has been suspended, the sponsor shall not resume the study without the concurrence of the Food and Drug Administration.

(d) A sponsor shall not unduly prolong an investigational study. Where data are developed in the study which would support submission of an application for premarket approval of the device pursuant to section 515 of the act, the sponsor shall either submit such an application or discontinue the study.

§ 812.47 Submitting information to investigators.

(a) The sponsor shall supply all investigators with copies of the investigational plan required under § 812.25, the report of prior investigations of the device required under § 812.27, and labeling (including labels) for the device which shall meet the requirements of § 812.5(b).

(b) The sponsor shall notify each investigator of the completion or discontinuance of the investigational study or the withdrawal of the exemption as soon as possible but in no event later than 5 working days after such action.

(c) The sponsor shall notify each investigator if an application for premarket approval of the device under section 515 of the act is approved.

(d) This section does not apply to a sponsor-investigator who is the only investigator.

§ 812.50 Promotion and sale of investigational devices.

(a) The sponsor and any person acting for or on behalf of the sponsor

shall comply with § 52.118 of this chapter and shall not commercially distribute or test market an investigational device, until the device has been approved for marketing for the purpose for which it is being investigated.

(b) Section 52.118 of this chapter and paragraph (a) of this section shall not apply to lawful commercial shipments of a device (other than a device subject to section 520(1) of the act, i.e., a device the Food and Drug Administration had regarded as a new drug or antibiotic drug) that was in commercial distribution before May 28, 1976 or that is substantially equivalent to a device that was in commercial distribution before such date, before the device is classified under section 513(d) of the act and any transitional period for the device under section 501(f)(2)(B) of the act has expired. Section 52.118 of this chapter and paragraph (a) of this section shall, however, apply to shipments of the device for investigational use.

(c) The sponsor shall not commercialize the device by charging subjects or investigators for an investigational device if the Food and Drug Administration finds the compensation to be unreasonable in view of the manufacturing and other costs of the device itself, and has notified the sponsor of this finding.

§ 812.55 Reporting to the Food and Drug Administration, maintaining records, and permitting inspections.

(a) The sponsor shall maintain accurate and adequate records for reporting to the Food and Drug Administration on the progress of the investigational study. These reports shall be made at appropriate intervals not exceeding 1 year. Such reports shall include any significant findings of the investigational study and any amendments to the application or to previous reports that are necessary to keep them accurate and timely and that had not been submitted to the agency previously.

(b) The sponsor shall notify the Food and Drug Administration of the suspension, termination, completion or discontinuance of the investigational study within 30 working days and shall make an accurate and adequate final report to the agency on the study within 6 months after the study is suspended, terminated, completed or discontinued, or an exemption is withdrawn.

(c) The sponsor shall notify the Food and Drug Administration of any request that investigators return, or otherwise dispose of, any supplies of the investigational device and of steps taken to comply with § 52.114 of this chapter.

(d) The sponsor shall report to the Food and Drug Administration any serious adverse effect, death, or life-threatening medical problem that is subject to the requirement of a special investigation under § 812.46(c) as soon as possible, but in no event later than 10 working days after the sponsor learns of the adverse effect, death, or medical problem. The sponsor shall submit the results of the special investigation as soon as possible but in no event later than 10 working days after the special investigation is completed. Such reports shall be accurate and adequate in content.

(e) The sponsor shall submit to the Food and Drug Administration a copy of a report of a determination by an investigator under § 812.123 that informed consent cannot be obtained from a subject or the subject's legal representative. Such report shall be submitted as soon as possible but in no event later than 5 working days after such report is received from the investigator.

(f) The sponsor shall report to the Food and Drug Administration any discovery that an institutional review committee is not complying with its agreement to review the study or with applicable Food and Drug Administration regulations.

(g) The sponsor shall retain a copy of any application, report, or correspondence that the sponsor submits to the Food and Drug Administration under this part. The sponsor shall maintain copies of all communications between the sponsor and any committee or any investigator regarding the study.

(h) A sponsor may withdraw from the responsibility for maintaining records for the period of time required in § 52.195 of this chapter by transferring custody to any other person who will accept responsibility for the records, e.g., a manufacturer who has acquired the rights to the device. Notice of such transfer shall be given to the Food and Drug Administration.

(i) A sponsor shall permit an authorized employee of the Food and Drug Administration, at reasonable times and in a reasonable manner, to inspect any facilities where the investigational device is manufactured, processed, held, or used, and to inspect and copy any records of the sponsor concerning the investigational study, including any records required to be kept under this chapter to which the sponsor has the right to grant access. A sponsor shall permit a representative of an institutional review committee that is supervising all or any portion of an investigational study initiated by the sponsor, at reasonable times and in a reasonable manner, to inspect and copy any records of the sponsor relevant to the responsibilities of the committee concerning the investigational study except trade secret or confidential commercial information that is confidential as described in 21 CFR 20.61.

(j) The Food and Drug Administration may require a sponsor to submit to the agency any records concerning the investigational study, including any records required to be kept under this chapter.

Subpart D—Institutional Review Committee [Reserved]

Subpart E—Investigator Responsibilities in Investigational Studies Involving Human Subjects [Reserved]

Subpart F—Informed Consent of Human Subjects

§ 812.120 General requirements of informed consent.

(a) Except as provided in § 812.123, an investigator shall:

(1) Inform each human subject, or if the subject lacks legal capacity, the subject's legal representative, that the investigational device is being used for research purposes.

(2) Provide each human subject, or the subject's legal representative, an adequate explanation of pertinent information concerning the investigational device, including the information required in § 812.130.

(3) Obtain and document legally effective informed consent of such subject, or such subject's legal representative.

(b) Informed consent shall be obtained while the subject, or the subject's legal representative, can exercise free choice without undue inducement or the intervention of any element of force, fraud, deceit, duress, or other forms of constraint or coercion.

(c) Informed consent shall be evidenced by a written agreement and signed by the subject or the subject's legal representative.

(d) The investigator shall maintain copies of records required by this subpart for the time prescribed in § 52.195 of this chapter.

§ 812.123 Exception from requirement.

(a) The requirements of § 812.120 shall not apply when:

(1) The investigator determines in writing (i) that there exists a life-threatening situation involving the subject which necessitates the use of the investigational device, (ii) that it is not feasible to obtain informed consent from the subject, and (iii) that there is not sufficient time to obtain such consent from the subject's legal representative.

(2) Such determination has the concurrence of a licensed physician not involved in the testing of the device, unless the investigator determines, and documents these determinations, that immediate use of the device is necessary to save the life of the subject, that there is not sufficient time to obtain such concurrence, and that there is available no effective alterna-

tive method of therapy that is approved or generally recognized which may save the life of the subject. These determinations may be documented before use of the device or within 5 working days after use.

(b) If the investigator does not obtain informed consent and uses the investigational device in accordance with the requirements of paragraph (a) of this section, the investigator shall maintain records of, and shall report as soon as possible but in no event later than 5 working days after using the device, the determinations required by paragraph (a) (1) and (2) of this section to the sponsor, for submission by the sponsor to the Food and Drug Administration in accordance with § 812.55, and to the committee.

§ 812.130 Elements of informed consent in agreement.

(a) The investigator shall ensure that the agreement to be signed under § 812.120(c), or the information that is given to the subject or to the subject's legal representative, includes a complete explanation of pertinent information on the investigational device adequate to enable him or her to make a decision on his or her willingness to participate, or permit the subject to participate, in the investigation and also includes:

(1) A full and fair explanation of procedures to be followed, including an identification of any which are experimental.

(2) A full explanation of the nature, expected duration, and purpose of the administration of the investigational device.

(3) A description of any attendant discomforts and risks reasonably to be expected.

(4) An explanation of likely results should the procedures fail.

(5) A description of any benefits reasonably to be expected.

(6) A disclosure of any appropriate alternative procedures that might be advantageous for the subject.

(7) A description of the scope of the investigation, including the number of subjects involved in the investigational study.

(8) An offer to answer any inquiries concerning the investigational study.

(9) An instruction that the subject, or the subject's legal representative, is free to decline entrance into the investigational study or to withdraw his or her consent and to discontinue participation in the study at any time without prejudice to the subject.

(10) A statement that the investigational device is being used for research purposes.

(b) The agreement entered into by such person or his or her legal representative shall include no language through which the subject waives, or appears to waive, any of the subject's legal rights or releases or appears to release the institution or its agents, or the sponsor, or the investigator, from liability for negligence.

(c) An investigator shall provide to the sponsor and any institutional review committee participating in the review of the study a sample copy of any written materials given or read to the subject, or the subject's legal representative, regarding the information required to be given by this section and a sample copy of any form used to document the consent of such subject, or the subject's legal representative, which form shall have been approved by the committee.

Subpart G—[Reserved]

Subpart H—Tests That Do Not Involve Human Subjects

§ 812.160 Conditions of exemption.

(a) Where an investigational device is intended for use in humans, a shipment of the device that is intended solely for tests in animals used only for laboratory research purposes, or for in vitro or mechanical tests or similar tests that do not involve use of human subjects, shall be exempt from any of the otherwise applicable provisions of the act listed in § 812.1(c) if:

(1) The labeling of the device complies with the requirements of § 812.5 (a) and (b) and bears the following additional statement (or, where appropriate, a statement prescribed in § 809.10(c) of this chapter for an in vitro diagnostic product):

CAUTION—Device [or Diagnostic product] for investigational use only in laboratory animals or other tests that do not involve human subjects.

(2) The person who ships the device under this subpart uses due diligence to ensure (i) that the consignee is regularly engaged in conducting tests in animals used only for laboratory research, or for in vitro or other mechanical tests or similar tests that do not involve use of human subjects and (ii) that the shipment of the investigational device will actually be used only in such tests.

(3) The person who ships the device under this subpart maintains adequate records showing the name and address of the consignee to whom the device is shipped, date, quantity, and batch or code mark of each shipment for a period of 2 years after such shipment and, upon the request of a properly authorized employee of the Department at reasonable times, makes such records available for inspection and copying or submits such records to the Food and Drug Administration.

(4) The device will be tested in accordance with applicable requirements in Part 58 of this chapter.

(b) This subpart does not apply to any use of an investigational device that involves use of human subjects.

§ 812.170 Termination of exemption.

(a) The Commissioner shall terminate an exemption under this subpart if the Commissioner makes either of the following findings:

(1) The person shipping an investigational device under this subpart has failed to comply with one or more of the conditions for the exemption in this subpart.

(2) Any of the grounds for withdrawal of an investigational device exemption under § 812.35 applies.

(b) The Commissioner shall notify the sponsor of the termination of an exemption under this subpart by providing a full statement of the reasons for such termination and shall afford an opportunity for a regulatory hearing under Part 16 of this chapter. The person whose exemption is terminated shall recall or otherwise ensure the destruction of any unused devices.

Interested persons may, on or before September 11, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document.

Interested persons may file notices of appearance for a public hearing (in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk on or before June 12, 1978. The date, time, and place of the hearing will be announced in the FEDERAL REGISTER. Received comments and notices of appearance may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 29, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-12794 Filed 5-11-78; 8:45 am]

FRIDAY, MAY 12, 1978
PART IV

federal register

DEPARTMENT OF LABOR

Office of the Secretary

■

EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY

PART 30—EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

Final Rule

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The regulation published today amends the Department of Labor's regulations concerning equal employment opportunity in apprenticeship and training to include specific provisions requiring affirmative action for women.

EFFECTIVE DATE: The regulations shall take effect June 12, 1978.

FOR FURTHER INFORMATION CONTACT:

James D. Henry, Associate Solicitor for Labor Relations and Civil Rights, Office of the Solicitor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8222, or James P. Mitchell, Deputy Administrator, Bureau of Apprenticeship and Training, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20212, 202-376-6488.

SUPPLEMENTARY INFORMATION: On September 30, 1977, the Office of the Secretary of Labor, U.S. Department of Labor, published in the FEDERAL REGISTER (42 FR 52441) a proposal to amend 29 CFR Part 30 to require specific affirmative action steps, including goals and timetables, for women. The September 30 proposal provided that comments on the proposal would be received until November 14, 1977. Subsequently, the comment period was extended to November 30, 1977. As of January 3, 1978, 1,030 separate written comments had been received. More than half (579) of these comments favored the proposed amendment; 451 of the comments opposed it. Of the 1,030 comments, 144 were from apprenticeship committees; 114 from unions; 373 from individuals; 69 from government agencies; 118 from women's organizations; 100 from employees; and 112 from other organizations. Comments were received after January 3, 1978, although they are not included in the above count. Each submission has been thoroughly reviewed and each criticism and suggestion given careful consideration.

SUMMARY OF COMMENTS

1. Some of the comments opposed the proposed amendment because of the requirement of goals and timetables for women. These comments expressed the opinion that goals were the same as quotas and were illegal. Some of these comments expressed the view that the Department of Labor should withhold any action on final regulations until the U.S. Supreme Court has rendered its decision in *The Regents of the University of California* v. *Allen Bakke*. These comments maintained that the Department's final regulation would have to be consistent with this decision.

Some of the comments from those opposed to the use of goals suggested alternative means to accomplish affirmative action for women in apprenticeship. Alternatives suggested included the use of outreach programs for women, emphasis on recruitment of women, and the development of special programs to prepare women with basic skills required to enter apprenticeship programs.

2. Some of the comments opposed goals for women because of a belief that women as a class were unable to do the work of the skilled trades and/or were not interested in doing such work. Some of these comments expressed the opinion that goals would require the hiring of unqualified people who would not be able to do the work and/or of people who were not sincerely interested in learning the trade.

3. Other comments were not opposed to the concept of goals for women but suggested that the proposed first-year goal for women in entering apprenticeship classes was unreasonable. They expressed the view that there were not enough women available who were able to do the work and/or interested in becoming apprentices to meet the proposed goal.

Some of these commentors suggested alternative methods for establishing goals and timetables for women. Included in these suggestions were proposals to base the goal on current participation of women in the skilled trades, on the number of women interested in entering apprenticeships, and/or on the number of women who apply for entrance into apprenticeship programs. Some commentors suggested that the Department delay requiring goals for women for 2 years, requiring vigorous recruitment of women during the 2-year period. Goals would then be based on the number of women who demonstrated interest in apprenticeship during this 2-year period.

4. A few comments maintained that the availability of women interested in entering apprenticeships would vary from one region to another. These comments proposed that the Department take account of this and set goals on a regional rather than a nationwide basis.

5. Other comments from those opposed to the proposed amendment included statements that the proposal was inflationary, that it was inappropriate during a time of high unemployment in the skilled trades, and that the time allowed for making the required changes in the sponsors' affirmative action plans was too short. In addition, some comments suggested that program sponsors be allowed to set minimum physical standards for entrance into their programs.

6. Most of the comments received from women's organizations, individuals, government agencies, and public interest organizations supported the proposed amendment. These comments stated that without the specified affirmative action requirements, especially the use of goals and timetables, very little would be accomplished in increasing the participation of women in apprenticeship programs.

7. A number of those who commented in favor of the proposed amendment objected to the use of the term "qualified" modifying minorities or women in the section of the preamble entitled "Proposed Changes." These comments pointed out that the term is not used in the current regulation or the proposed amendment. They advocated as an alternative the use of the word "trainable," claiming that there was a possibility that biased program sponsors may use this language as an excuse to exclude women on the basis that they were not "qualified."

8. Others who favored the amendment generally suggested that the Department adopt the position that the ultimate goal for women in apprenticeship be work force parity, and that the goal be set at this level in 5 years.

9. Some of those favoring the amendment proposed that the use of priviate review panels in connection with complaints of discrimination be eliminated and/or that complainants be given an option to file their complaints with the Department.

10. Some proponents of the amendments suggested that the Bureau of Apprenticeship and Training be required to conduct compliance reviews of programs annually.

11. A few organizations favoring the amendments suggested that the complaint procedure be changed in order to permit third-party complaints.

12. Some women's organizations and government agencies were concerned about the problem of double counting minority women.

13. Other suggestions made by those who favored the amendments included the elimination of age limits, increased coordination between the Bureau of Apprenticeship and Training and the Office of Federal Contract Compliance Programs of the Department of Labor, and shortening of the time periods allowed program sponsors to come into compliance.

In the Discussion section below we will take up each of the issues listed

above as we discuss the amendment on a section-by-section basis.

BACKGROUND

Regulations published at 29 CFR Part 30 establish policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor or with recognized state apprenticeship agencies. The regulations prohibit discrimination based on race, color, religion, national origin or sex.

They also require the adoption of written affirmative action programs including the development of goals and timetables. But while the present regulations require the elimination of sex-based discrimination, they do not require that the written affirmative action plans cover women. Also, a sponsor currently is not required to establish and attain goals and timetables for women although goals and timetables are required for minorities.

Over the last several years the Department of Labor has received a number of requests to amend 29 CFR Part 30 to make the written affirmative action plan requirement, including goals and timetables, applicable to women. Most recently a group of organizations petitioned the Department of Labor pursuant to 5 U.S.C. 553(e) to initiate rulemaking proceedings to cover women in affirmative action plans relating to registered apprenticeship programs.

The Department of Labor has examined the status of women in apprenticeship programs and has concluded, based on their participation rate, that 29 CFR Part 30 should be amended to require that written affirmative action plans for apprenticeship programs cover women, including the establishment and implementation of goals and timetables.

As the petition for rulemaking states:

> The percentage of women in the civilian labor force has steadily increased from 1920 to 1976, when the percentage of the workforce which is female had climbed to a new high of 40.5 percent. However, despite a continuing climb in overall labor force participation, women are generally confined to five low-paying categories of work: clerical, domestic work, teaching, nursing and sales. Women comprised only 4.5 percent of all craft and kindred workers—"The skilled trades"—in 1975. A woman working full-time, year-around, in 1974 as a clerical had a median income of $6,827; a domestic earned $2,676; a salesperson $5,168; and a teacher below the college level, not a year-round worker, could expect $7,739. In contrast, male craft workers reached a median income of $12,028. [Footnote and reference omitted.]

Historically, women have had only limited participation in apprenticeship programs, which is how many skilled craftworkers enter their jobs.

In 1976 of the 11 million skilled blue-collar workers, only slightly over a half million (545,038) were women. Nearly 165,000 of these women were bakers; tailors; upholsterers; and decorators and window dressers; constituting, respectively, 37.2, 32.1, 28.6, and 70.6 percent of total employed. On the other hand, the proportion of women carpenters, electricians, painters, plumbers, machinists, mechanics, stationary engineers, and a few other skilled trades ranged from less than 1 percent to about 3 percent of the total. Although the number of women apprentices increased by 74 percent in one year (1974-75), they still represented only 1.2 percent of the total number of apprentices registered.

DISCUSSION

The following sections have not been significantly affected by the regulations adopted today, other than minor conforming and editorial changes: §§ 30.1, 30.2, 30.7, 30.9, 30.10, 30.12, 30.14, 30.16, 30.17, 30.18 and 30.19. The major change in the sections affected by the regulation is the insertion of appropriate words to show that the written affirmative action plan requirement applies to women as well as to minorities. Section 30.6 has been altered in this manner as well as through minor editorial and conforming changes. Other sections significantly affected by the regulation adopted today will be discussed below.

Section 30.3. This section sets forth the equal opportunity standards applicable to sponsors of apprenticeship programs.

1. Section 30.3(e) provided that a sponsor would not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5 if it submitted to the Department satisfactory evidence that it was in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship which had been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended, or Executive Order 11246, as amended.

The proposal published in the FEDERAL REGISTER on September 30, 1977, (42 FR 52441) proposed the following addition to § 30.3(e): "except to the extent that the goals and timetables in such program are less than would be required under this part." Several comments objected to this proposed addition, claiming that meeting the requirements of Executive Order 11246 or Title VII should adequately protect the rights of women and minorities with regard to apprenticeship. After considering these comments, the Department has decided to adopt the following language as an addition to § 30.3(e):

> Provided, That programs approved, modified or renewed subsequent to the effective date of this regulation will qualify for the exception only if the goals and timetables for both minorities and women for the selection of apprentices provided for in such programs are equal to or greater than the goals required under this part.

Thus the regulation adopted today will permit sponsors with approved equal employment opportunity programs to be exempted from the requirement to adopt an affirmative action plan or a selection procedure during the duration of their currently approved program, provided such programs contain goals and timetables for women as well as for minorities. Programs approved subsequent to the effective date of this amendment will have to be consistent with this part in order for the exemption to be allowed.

2. Section 30.3(f) provided that sponsors of programs with fewer than five apprentices not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5. The proposal published in the FEDERAL REGISTER on September 30, 1977 (42 FR 52441) proposed the following addition to § 30.3(f): "provided that such program was not adopted to circumvent the requirements of this part." This proposal has been adopted.

Section 30.4. This section sets forth the requirement that program sponsors adopt a written affirmative action plan, including the establishment of goals and timetables. This section previously required the establishment of goals and timetables for minorities only. The regulation adopted today amends this section to require the establishment of goals and timetables for women as well as for minorities. A number of comments addressed the issue of goals. Some of the commentors, particularly some of the unions and joint apprenticeship councils, characterized goals as "quotas", stated that the goal requirement would require the hiring of unqualified persons, stated that women are not capable of or interested in working in the skilled trades, and stated that other workers would be displaced by women because of high unemployment in the skilled trades.

The Department of Labor's experience has demonstrated that goals and timetables are the most concrete and effective system for increasing the representation of women and minorities in employment areas from which they have previously been excluded or have not been represented in proportion to their availability. Initially, contractors subject to the requirements of Executive Order 11246, as amended, were required to implement goals and timetables for minorities only. Thereafter, non-construction contractors were required to establish goals and timetables for women also. Most recently, the Executive Order regulations were amended to require goals and ti-

metables for women working in construction.

A review of the status of women in the skilled trades shows that unless specific affirmative action steps are prescribed, employment opportunities in these trades will not reach the female workforce. For example, when these regulations were proposed last September, the preamble contained the following statement (42 FR 52442):

> According to the latest available data for January through June 1976, there were 3,545 women apprentices, representing 1.4 percent of the total apprentices (249,060). A further look at the number of women employed in several occupations for which apprenticeships are available shows generally that women are making very small gains, numerically and proportionately. The gains, in fact, are so small that if women are ever to be fairly representative in the skilled crafts, their entry into apprenticeship programs must be greatly accelerated. The Department of Labor's experience has shown that the use of goals and timetables is the most effective means for increasing the number of women and minorities in employment areas from which they previously have been excluded or have not been represented in proportion to their availability. Minority participation in apprenticeship and in individual construction trades, for example, has increased measurably as a result of the minority outreach program and the goals and timetables requirements under 29 CFR Part 30. The data for the first 6 months of 1976 indicate that monorities (who constitute 11.5 percent of the work force) are 17.7 percent of all apprentices. This is a rise from 9.1 percent in 1970, the last year before 29 CFR Part 30 was issued. During the same months in 1976, women (41.1 percent of the work force) held only 1.4 percent of all apprenticeship positions.

In view of these data, affirmative action goals and timetables for women in apprenticeship programs coupled with implementing affirmative action procedures would appear to be particulary appropriate at this time.

Many of the commentors opposed to this regulation claimed that women are not available for work in the skilled trades in the numbers required to achieve the goals. These commentors maintained either that women could not do the work or were not interested in apprenticeships. Information gathered by the Department, however, reveals that when opportunities are opened up for women in the skilled trades, women are available to take advantage of the opportunities.

The experience of World War II demonstrated the ability of women to perform jobs traditionally held as "male". During that period 6.7 million women entered the labor force with 2.9 million working in the crafts, as operatives or non-farm laborers. Approximately 350,000 women served in one of the four military services, and many others served in quasi-military support units. Women worked in essentially every occupation except direct combat. They drove trucks, repaired airplanes, rigged parachutes, were gunnery instructors, as well as air traffic controllers. Data provided to the Department by the Office of Women's Rights, Seattle, Wash., demonstrates the success in placing women in construction trades which was achieved when the City instituted a 12 percent goal for women in all levels of city-financed construction work. The Director of the Office of Women's Rights in a September 26, 1977 letter, wrote that the 12 percent overall goal has been so achieveable that it is likely it will be raised to 15 percent in 1978.

The Maritime Administration, which oversees enforcement of Executive Order 11246 in the shipbuilding industry, has provided the Department with some very useful documentation on both the availability of women for construction-related jobs and the positive impact of goals and timetables in the employment of women in those jobs. A number of the jobs in the shipbuilding industry are comparable to jobs in construction; the Maritime experience therefore is particularly useful. In early 1972 the Maritime Administration began requiring goals and timetables for women by shipbuilding contractors. The experience was that as more women were employed, more women applied. Once women knew that they would be hired without regard to sex, they applied in large numbers. In at least one shipyard the applicant flow is now running at the rate of the normal workforce rate of women in that area, greatly exceeding the 20 percent entry level goal originally set. Unquestionably, the key reason for the increase of women in that industry is goals and timetables.

Significant employment increases for women have resulted in the skilled and semi-skilled crafts in the Bell System of the American Telephone and Telegraph Co. under the goals required by the consent decree entered in 1973. Goals for women were set at the percentage of women in the workforce (then 38 percent) in all job groups in which they were under-represented, except for outside skilled and semiskilled craft jobs, where the goals were set at half the female workforce figure (i.e. 19 percent in 1973). Annual targets were set at these levels and carefully monitored. From January 1, 1973, to January 1, 1977, women in outside skilled crafts in AT&T rose in actual numbers from 38 to 970. Thus, despite the fact that the company was reducing its workforce in inside skilled and outside and inside semiskilled job groups during the same years, the gains for women were marked in each of these categories. Goals were also required for women in the construction of the Alaska pipeline. Not only was the goal exceeded but women worked in areas and under conditions where many would have thought women would not accept jobs. Better than 2,500 women worked in the bush in such jobs as operating engineers, teamsters, laborers, etc. In fact, of the 19 construction crafts working on the pipeline, women were represented in all but four.

A major effort to include women in non-traditional jobs, many of them construction related, has been undertaken by the Department of Defense, particularly the Air Force. Between 1974 and 1976, the number of women trained by the Air Force in non-traditional areas increased from 19,465 to 29,235. By 1977, their number had reached 34,610. Also, many of the women who entered the Air Force training programs in the initial stages in 1972, are now entering the civilian labor force and would be available for apprenticeship programs. Some of the Air Force Speciality Codes open to women include: Telephone Switching Equipment Repairman Electrical/Mechanical in which women went from zero in 1972 to 72 in 1977; Helicopter Mechanic, Jet Engine Mechanic, Aircraft Maintenance Specialist, and other related mechanic categories, from zero in 1972 to 3,181 in 1977; Electrician, from one in 1972 to 105 in 1977; Pavement Maintenance Specialist, zero to 46; Carpenter, zero to 91; and Plumber, zero to 72. Air Force enlistees enter the service with a four year commitment; they receive training and perform the duties of these specialities for that period of time. The military has been and remains a primary source for apprenticeship training for many men entering the skilled trades. It should also become a source of recruitment for women.

Since 1971, the Department has funded outreach programs for nontraditional jobs for women. Apprenticeship outreach programs have special women's components in 23 cities which have been funded for recruitment and placement of women. The concept of nontraditional job development for women has now been incorporated in all apprenticeship outreach programs and is involving women in over 100 cities. These and other specialized on-the-job training programs funded by the Department's Office of National Programs have contributed to opportunities for women in trades in which they were previously unrepresented. At the same time, however, overall numbers have not shown a significant increase comparable to that of minorities. Among the most successful projects are:

Better Jobs For Women—Initiated in 1971 under the leadership of the Denver Metropolitan YWCA, this project was developed by the Bureau of Apprenticeship and Training of the Department of Labor. It is one of two

outreach programs operating specifically to get women into nontraditional jobs. The target population was female heads of households. Each year this project has surpassed its stated goal for placements. It has reported that there is greater interest in apprenticeship by women than there are opportunities. For example, as of April 1977 a yearly average of 150-200 women applied for registered apprenticeship but only 20 were placed.

Advocates For Women—A San Francisco project, funded by the Department of Labor since January 1974, this project serves nine counties in the San Francisco Bay Area. Its goal is to place women in apprenticeship training with an emphasis on construction.

The project reports that 1,100 women apply each year; 125 are placed. The project has had to stop advertising because the interest generated so far exceeds the placements available.

National Urban League, LEAP Apprenticeship Outreach Program For Women.—This project was funded by the Department of Labor in May 1974 to provide for greater involvement of women in apprenticeship. It is operated in conjunction with LEAP projects already providing outreach for minorities. It has operated in 15 cities across the country. This project has placed women in more than 15 crafts. The crafts in which women are participating under this project include: Asbestos workers, bricklayers, carpenters (22.8 percent of placements), cement masons, drywall tapers, electricians, ironworkers, laborers (14.9 percent), pipe trades, roofers, sheet metal workers, tilesetters, and welders.

A number of representatives of outreach programs and women's organizations commented in favor of the proposed regulation, stating that many women are eager to enter apprenticeships but that there are insufficient openings due to lack of affirmative action goals.

Thus the Department's experience indicates that there are women available and interested in entering the skilled trades. However, the longstanding reputation of the trades for excluding women discourages many women from applying for these jobs. A study by two Stanford University psychologists demonstrates that the number of women applying for jobs in the construction trades would substantially increase were there goals for women. In that study, two groups of female job seekers were given three detailed job descriptions and were asked to rate their interest in the jobs on a scale of 1 to 5, from "not interested" to "extremely interested." Two of the three jobs described were traditionally female jobs and one was a construction job. Half of the booklets contained the following statement under the title of the construction jobs: "Equal Opportunity for Women, Note: Federal Law Now Requires That Companies Train and Hire a Certain Percentage of Women for the Job of [carpenter] Each Year." The other half of the booklets contained no statement about affirmative action. In the affirmative action group, 33 percent of the women indicated a strong interest in the construction job, twice the percentage indicating a strong interest as in the other group. Seventy percent of the women in the affirmative action group expressed some degree of positive interest in construction jobs, one and one half as many as the other group.

Thus it is clear that women are available for apprenticeship opportunities. Furthermore, if women are to receive a fair number of these opportunities it is necessary to establish specific affirmative action requirements, including goals and timetables.

The Department of Labor recognizes and adheres to the distinction between permissible affirmative action goals and timetables and impermissible quotas. In a March 23, 1973 memorandum, the Departments of Justice and Labor and the Equal Employment Opportunity Commission and the Civil Service Commission distinguished goals and timetables from quotas:

> * * * Quota systems in the past have been used in other contexts as a quantified limitation, the purpose of which is exclusion, but this is not its sole definition. A quota system, applied in the employment context, would impose a fixed number or percentage which must be attained, or which cannot be exceeded; the crucial consideration would be whether the mandatory numbers of persons have been hired or promoted. Under such a quota system, that number would be fixed to reflect the population in the area, or some other numerical base, regardless of the number of potential applicants who meet necessary qualifications. If the employer failed, he would be subject to sanction. It would be no defense that the quota may have been unrealistic to start with, that he had insufficient vacancies, or that there were not enough qualified applicants, although he tried in good faith to obtain them through appropriate recruitment methods.
>
> Any system which requires that consideration of relative abilities and qualifications be subordinated to considerations of race, religion, sex or national origin in determining who is to be hired, promoted, etc., in order to achieve a certain numerical position has the attributes of a quota system which is deemed to be impermissible under the standards set forth herein.
>
> A goal, on the other hand, is a numerical objective, fixed realistically in terms of the number of vacancies expected, and the number of qualified applicants available in the relevant job market. Thus, if through no fault of the employer, he has fewer vacancies than expected, he is not subject to sanction, because he is not expected to displace existing employees or to hire unneeded employees to met his goal. Similarly, if he has demonstrated every good faith effort to include persons from the group which was the object of discrimination into the group being considered for selection, but has been unable to do so in sufficient numbers to meet his goal, he is not subject to sanction.

The Department of Labor continues to recognize the distinction between affirmative action and impermissible quotas, and also follows the policy enunciated in the memorandum quoted above.

The Congress and the courts also have recognized and acquiesced in the affirmative action programs (including goals and timetables) required under Executive Order 11246, as amended, which is administered by the Office of Federal Contract Compliance Programs of the Department. When Congress considered the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261), Senator Saxbe made the following statement (118 Cong. Rec. 1385):

> The OFCC[P]'s affirmative action programs have tremendous impact and require that 260,000 Government contractors in all industries adopt positive programs to seek out minorities and women for new employment opportunities. To accomplish this objective, the OFCC[P] has utilized the proven business technique of establishing "goals and timetables" to insure the success of the Executive Order Program. It has been the "goals and timetables" approach which is unique to the OFCC[P]'s efforts in equal employment, coupled with extensive reporting and monitoring procedures that has given the promise of equal employment opportunity a new credibility.
>
> The Executive Order Program should not be confused with the judicial remedies for proven discrimination which unfold on a limited and expensive case-by-case basis. Rather, affirmative action means that all Government contractors must develop programs to insure that all share equally in the jobs generated by the Federal Government's spending. Proof of overt discrimination is not required.

Senator Saxbe's proposed amendment was adopted. (118 Cong. Rec. 1387-1398 (1972).) In addition, 2 days after hearing the comments of Senator Saxbe, quoted above, Congress rejected an amendment offered by Senator Ervin which would have proscribed the adoption of goals by Government contractors. See also *U.S.* v. *Elevator Constructors (IUEC) Local Union No. 5*, 538 F.2d 1012, (3rd Cir. 1976); *Constractors Ass'n of Eastern Pa.* v. *Shultz*, 442 F.2d 159 (3rd Cir. 1971), *cert. denied*, 404 U.S. 854 (1971).

Some of the comments which opposed the use of goals for women suggested alternative methods for achieving affirmative action. Alternatives suggested included the use of outreach programs, emphasis on recruitment, and the development of special programs to prepare women with basic skills required to enter apprenticeship programs. As has been discussed above, both outreach programs and re-

cruitment have been used in the past and while there has been some notable success, there continues to be serious underrepresentation of women in apprenticeship programs. It has been the Department's experience that this underrepresentation can best be remedied through the use of goals and timetables.

3. Section 30.4(e) sets forth the factors which should be analyzed in writing as part of the affirmative action plan. Item (1) in the existing regulation provides the following: "The minority population of the labor market area in which the program sponsor operates." This factor was inadvertently omitted from the September 30, 1977, proposal (42 FR 52441). Several comments were addressed to this issue, suggesting that the existing item (1) be amended to include the female population. The appropriate factor, however, is the working age minority and female (minority and nonminority) population.

4. Section 30.4(f) sets forth the method by which program sponsors are to establish and attain their goals and timetables. The proposal published on September 30, 1977, (42 FR 52441) contained two additions to § 30.4(f) which are included in the regulation adopted today. The first addition reads as follows:

> A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required for example, if a specific minority group of women were underutilized even though the female goals generally had been achieved.

This addition requires sponsors to establish two goals: one for women and one for minorities. In instances where a particular group of women or a particular group of minority men is employed in a substantially disparate manner, the sponsor would be required to establish separate goals for the group in question. For example, a sponsor could meet its goals for women and minorities yet have substantial underrepresentation of minority women in its apprenticeship program. In this case the sponsor would be required to set separate goals for minority women. The same would be true if there were significant underrepresentation of white women or of a particular minority group.

The second addition to § 30.4(f) reads as follows:

> However, in order to deal fairly with program sponsors and with women who are entitled to protection under the goals and timetables requirements, during the first 12 months after the effective date of these regulations, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than one half the proportion women are of the workforce in the program sponsor's labor market area and set a percentage goal for women in all classes beyond the entering class which is not less than the participation rate of women currently in the preceding class. At the end of the first 12 months after the effective date of these regulations, sponsors are expected to make appropriate adjustments in goal levels. See 29 CFR 30.8(b).

A number of comments, primarily from unions and joint apprenticeship committees, opposed this method of establishing goals for women in the entering class of apprenticeship programs. Their main complaint was that the method would result in a goal which was unrealistic and impossible to meet because there were not enough women with the ability and/or interest to enter the skilled trades.

As we have discussed above, however, the information collected by the Department of Labor indicates that where opportunities are extended to women, there are women available. Furthermore, from the material the Department has studied in connection with the preparation of this regulation, it appears that the goal which will result from the regulation adopted today is a reasonable one. Sponsors will not be held to an absolute standard of achieving the goal but are expected to make good faith efforts to meet the goal.

As of 1976 women constituted 40.5 percent of the national labor force. While the figures will vary from one program sponsor's labor market area to another, the entering class goal resulting from the regulation adopted today should be at least 20 percent. It is to be noted that this was the goal successfully used by the Maritime Administration for apprenticeship and comparable entry level jobs in shipbuilding. Likewise the goals for hiring women in outside skilled and semiskilled crafts under the American Telephone and Telegraph Company Consent Decree were set at half the female workforce figure. In addition, as discussed above, Seattle, Wash., instituted a 12 percent goal for women in city financed construction work. This goal applied to all levels and types of construction work, not just apprenticeship. As we have seen the Office of Women's Rights in Seattle has indicated that the goal has been so achievable it is likely to be raised to 15 percent. Although the goals required for women in construction under the Executive Order 11246 regulations are lower than the entering class goal required by this regulation, this is appropriate in view of the fact that the Executive Order 11246 goals supply to all levels of construction work, not just apprenticeship. Thus, the goals set reflect the fact that there are few women journeypersons and advanced apprentices available.

Several alternatives were proposed by those who opposed the method of establishing entering class goals required by this regulation. These included basing goals on the percentage of women currently working in the apprenticeable trades, on the number of women who apply for apprenticeships, and/or on the number of women interested in apprenticeship. The Department has considered these alternatives and found them to be unacceptable. To base goals on the current percentage of women in the skilled trades would serve to perpetuate the discrimination which has resulted in so few women entering the trades. Further, it would be inappropriate because apprenticeships are entry-level positions, requiring no previous skills or training. Thus the applicable labor market is not those in the labor force who have already acquired skills, but those who possess the capability to be trained. In the absence of any proof to the contrary, the Department assumes that the percentage of the female labor force capable of being trained in the skilled trades is approximately equal to the percentage of the male labor force with that capability. Thus the Department assumes that in the absence of discrimination women would be represented in the skilled trades in a fashion comparable to their representation in the total workforce in a given geographical area.

Basing goals on the numbers of women who have applied for apprenticeship or otherwise indicated interest in apprenticeship is likewise unacceptable. As a number of courts have held, people are often discouraged from applying for jobs with employers who have a reputation of not hiring members of their particular group. See *Lea* v. *Cone Mills Corp.*, 301 F. Supp. (M.D.N.C. 1969), *aff'd in relevant part*, 483 F.2d 86 (4th Cir. 1971); *U.S.* v. *Central Motor Lines, Inc.*, 338 F. Supp. 532 (W.D. N.C. 1971); *Dobbins* v. *Local 212, IBEW*, 292 F. Supp. 413, (S.D. Ohio 1968). Thus the number of women applying for apprenticeship should not be used as a basis for goal-setting. Basing goals on the number of women who have expressed interest in apprenticeship would be objectionable for the same reason.

Some of the comments suggested that the Department delay requiring goals for women for 2 years, requiring vigorous recruitment of women during that 2-year period. Goals would then be based on the number of women who demonstrated interest in apprenticeship during this 2-year period. It is the Department's position that this suggestion is unacceptable because women are so seriously underrepresented in the skilled trades it is necessary to begin remedial action immediately. As discussed previously, it is the Department's experience that goals and timetables are the most effective means for accomplishing such remedi-

al action. Clearly vigorous recruitment is also required but experience has shown that it alone is not enough.

A few comments maintained that the availability of women would vary from one region to another and that this fact should be accounted for in the regulation. It is to be noted that goals are set based on a particular sponsor's labor market area. Thus if the percent of women is lower than the national average in a particular labor market area the entering class goal would be lower as well. Since we have no proof that the female interest in apprenticeship varies significantly from one geographic area to another, there is no reason to make any further distinctions based on region.

Some of the individuals and women's groups who commented in favor of the regulation recommended that the Department adopt workforce parity as the ultimate goal for women in apprenticeship and require that the goal be set at this level in 5 years. The regulation adopted today provides at § 30.8 that the goals and timetables shall be updated annually until workforce parity is achieved.

Section 30.5. This section sets forth the obligations of sponsors in the adoption of a method for the selection of apprentices.

1. Minor changes have been made in this section to make it consistent with the Office of Federal Contract Compliance Programs Guidelines on Employee Selection Procedures, 41 CFR Part 60-3.

2. Changes have been made in § 30.5(b)(1)(iii) and § 30.5(b)(4)(i)(B) to eliminate minimum physical requirements as acceptable qualifications for apprenticeship. Some of those who commented against the proposed regulation suggested that minimum physical requirements be permitted. Minimum physical requirements were eliminated from the proposal and from the regulation adopted today because such requirements have traditionally been used to exclude women and some minority groups from employment opportunities. By minimum physical requirements we are referring to such things as height and weight requirements and arbitrarily applied strength requirements. We note, however, that while a sponsor could not reject applicants on their height, weight, or apparent strength, there is nothing in the regulation adopted today which would prohibit properly job-related performance and physical ability tests. Such tests must meet the requirements of 41 CFR Part 60-3 in order to be acceptable.

3. In the proposal published on September 30, 1977 (42 FR 52441), changes were made in § 30.5(b)(4)(i)(A) to require that a sponsor complete development of its revised selection method along with the rest of its affirmative action program within 60 days of the effective date of this amendment. Some comments criticized this provision as not allowing enough time. The provision was changed from 60 to 90 days to make it consistent with § 30.3(c).

Section 30.11. This section sets forth the complaint procedure.

1. A number of comments addressed the provision that allows complaints to be filed with a private review body, stating that such procedures should not be imposed on complainants but should be voluntary. We note that both the proposal and the regulation adopted today do make the use of private review bodies optional, as the complainant has the choice of filing his or her complaint with the Department or the private review body.

2. Section 30.11(b)(3) was added in both the proposal and in the regulation adopted today to require that sponsors provide written notice of the complaint procedure to all applicants for apprenticeship and all apprentices. A number of individuals and groups commented favorably on this addition, stating that it was very important since without it many applicants and apprentices would not know what recourse they had in the event they believed they had been subjected to discrimination.

Section 30.15. This section sets forth procedures to be followed by State Apprenticeship Councils. The proposal and the regulation adopted today require that each State Apprenticeship Council complete development of a revised equal opportunity plan which shall be consistent with this part within 60 days of the effective date of this regulation. The revised State plan must require all State apprenticeship programs registered with the State Apprenticeship Council to comply with the requirements of the revised State plan within 90 days of the effective date of this regulation. Some of the comments criticized the proposal on the basis that these time requirements were too short, others criticized them on the basis that they were too long. It is the Department's decision that the time periods are adequate.

Other Comments

1. Some comments expressed the view that the Department of Labor should withhold a decision until the Supreme Court has ruled in *The Regents of the University of California* v. *Bakke* case. It, of course, is always difficult to predict with precision how the Supreme Court will rule in a specific case. However, it is not likely that a ruling in that case, a university admissions case, would have the type of impact on these regulations that they should be held in abeyance until the Supreme Court has ruled.

2. Some comments stated that the regulation adopted today should not be implemented in a time of high unemployment in the skilled trades. It is to be noted, however, that this regulation does not require that any current apprentices or other workers be laid off or removed from apprenticeship programs.

3. A number of those favoring the regulation objected to the use of the word "qualified" modifying minorities or women in the section of the Preamble entitled "Proposed Changes." These comments pointed out that the term is not used in the current regulation or the proposed amendment. They advocated as an alternative the use of the word "trainable," claiming that there was a possibility that biased program sponsors may use this language as an excuse to exclude women on the basis that they are not "qualified." As stated previously, the regulation adopted today reflects the Department's determination that apprenticeships, like other entry level jobs, do not require any particular training or qualification other than the capability to be trained. The use of the word "qualified" in the Preamble to the proposed regulation was not intended to signify anything contrary to this position.

4. Neither the proposed regulations nor the regulations adopted today amended 29 CFR 30.5(b)(4)(B) which permits school diplomas as a qualification standard. Comments were invited, however, on the issue of whether the school diploma should be retained as an alternative selection method. A number of comments were received on this issue both in favor and opposed to the retaining of the school diploma as a permissible selection criteria. No change was made in this section because current law is clear that if a high school diploma requirement has an adverse impact on any group, it must be validated. *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971). The current regulation requires such validation in accordance with the Guidelines on Employee Selection Procedures, 41 CFR Part 60-3.

In consideration of the foregoing, 29 CFR Part 30 is hereby amended as set forth below.

Dated: May 9, 1978.

Ernest G. Green,
Assistant Secretary, Employment and Training Administration.

Sec.
30.1 Scope and purpose.
30.2 Definitions.
30.3 Equal opportunity standards.
30.4 Affirmative action plans.
30.5 Selection of apprentices.
30.6 Existing lists of eligibles and public notice.
30.7 [Reserved].
30.8 Records.
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30.10 Noncompliance with Federal and State equal opportunity requirements.

Sec.
30.11 Complaint procedure.
30.12 Adjustment in schedule for compliance review or complaint processing.
30.13 Sanctions.
30.14 Reinstatement of program registration.
30.15 State Apprenticeship Councils.
30.16 Hearings.
30.17 Intimidatory or retaliatory acts.
30.18 Nondiscrimination.
30.19 Exemptions.

AUTHORITY: Sec. 1, 50 Stat. 664, as amended; 29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301; Reorganization Plan No. 14 of 1950, 64 Stat. 1267, 3 CFR 1949-53 Comp. p. 1007.

§ 30.1 Scope and purpose.

This part sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and in state apprenticeship programs registered with recognized state apprenticeship agencies. These policies and procedures apply to the recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship. The procedures established provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints, and for deregistering noncomplying apprenticeship programs. This part also provides policies and procedures for continuation or withdrawal of recognition of state agencies for registering of apprenticeship programs for Federal purposes. The purpose of this part is to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, religion, national origin, or sex in apprenticeship programs, by requiring affirmative action to provide equal opportunity in such apprenticeship programs, and by coordinating this part with other equal opportunity programs.

§ 30.2 Definitions.

(a) "Department" means the U.S. Department of Labor.

(b) "Employer" means any person or organization employing an apprentice whether or not the apprentice is enrolled with such person or organization or with some other person or organization.

(c) "Apprenticeship program" means a program registered by the Department and evidenced by a Certificate of Registration as meeting the standards of the Department for apprenticeship, but does not include a state apprenticeship program.

(d) "Sponsor" means any person or organization operating an apprenticeship program, irrespective of whether such person or organization is an employer.

(e) "Secretary" means the Secretary of Labor, the Assistant Secretary of Labor for Employment and Training, or any person specifically designated by either of them.

(f) "State Apprenticeship Council" means a state apprenticeship council or other state agency in any of the 50 states, the District of Columbia, or any territory or possession of the United States, which is recognized by the Department as the appropriate agency for registering programs for Federal purposes.

(g) "State apprenticeship program" means a program registered with a State Apprenticeship Council and evidenced by a Certificate of Registration or other appropriate document as meeting the standards of the State Apprenticeship Council for apprenticeship.

(h) "State program sponsor" means any person or organization operating a State apprenticeship program, irrespective of whether such person or organization is an employer.

§ 30.3 Equal opprtunity standards.

(a) *Obligations of sponsors.* Each sponsor of an apprenticeship program shall:

(1) Recruit, select, employ, and train apprentices during their apprenticeship, without discrimination because of race, color, religion, national origin, or sex; and

(2) Uniformly apply rules and regulations concerning apprentices, including but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration by the program sponsor; and

(3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this part.

(b) *Equal opportunity pledge.* Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge:

The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30.

(c) *Programs presently registered.* Each sponsor of a program registered with the Department as of the effective date of this part shall within 90 days of that effective date take the following action:

(1) Include in the standards of its apprenticeship program the equal opportunity pledge prescribed by paragraph (b) of this section;

(2) Adopt an affirmative action plan required by § 30.4; and

(3) Adopt a selection procedure required by § 30.5. A sponsor adopting a selection method under § 30.5(b) (1), (2), or (3) shall prepare, and have available for submission upon request, copies of its amended standards, affirmative action plans, and selection procedure. A sponsor adopting a selection method under § 30.5(b)(4) shall submit to the Department copies of its standards, affirmative action plan and selection procedure in accordance with the requirements of § 30.5(b)(4)(i)(a).

(d) *Sponsors seeking new registration.* A sponsor of a program seeking new registration with the Department shall submit copies of its proposed standards, affirmative action plan, selection procedures, and such other information as may be required. The program shall be registered if such standards, affirmative action plan, and selection procedure meet the requirements of this part.

(e) *Programs subject to approved equal employment opportunity programs.* A sponsor shall not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5 if it submits to the Department satisfactory evidence that it is in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship including goals and timetables for women and minorities which has been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.) and its implementing regulations published in Title 29 of the Code of Federal Regulations, Chapter XIV or Executive Order 11246, as amended, and its implementing regulations at Title 41 of the Code of Federal Regulations, Chapter 60: *Provided,* That programs approved, modified or renewed subsequent to the effective date of this amendment will qualify for this exception only if the goals and timetables for minorities and women for the selection of apprentices provided for in such programs are equal to or greater than the goals required under this part.

(f) *Program with fewer than five apprentices.* A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5: *Provided,* That such program was not adopted to circumvent the requirements of this part.

§ 30.4 Affirmative action plans.

(a) *Adoption of affirmative action plans.* A sponsor's commitment to equal opportunity in recruitment, selection, employment, and training of apprentices shall include the adoption of a written affirmative action plan.

(b) *Definition of affirmative action.* Affirmative action is not mere passive

nondiscrimination. It includes procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and nonminority) apprentices including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the Nation's labor force.

(c) *Outreach and positive recruitment.* An acceptable affirmative action plan must also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunity of minorities and women to become eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources. However, the sponsor will be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this part. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below. Whenever special circumstances warrant, the Department may provide such financial or other assistance as it deems necessary to implement the requirements of this paragraph.

(1) Dissemination of information concerning the nature of the apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor. For programs accepting applications only at specified intervals, such information shall be disseminated at least 30 days in advance of the earliest date for application at each interval. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semiannually. Such information shall be given to the Department, local schools, employment service offices, women's centers, outreach programs and community organizations which can effectively reach minorities and women, and shall be published in newspapers which are circulated in the minority community and among women, as well as in the general areas in which the program sponsor operates.

(2) Participation in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service and other appropriate personnel with the apprenticeship system and current opportunities therein.

(3) Cooperation with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(4) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this part.

(5) Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeships; where appropriate and feasible, such programs shall provide for pretesting experience and training. If no such programs are in existence the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the Department. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor shall also initiate programs to prepare women and encourage women to enter traditionally male programs.

(6) To encourage the establishment and utilization of programs of preapprenticeship, preparatory trade training, or others designed to afford related work experience or to prepare candidates for apprenticeship, a sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program.

(7) Utilization of journeypersons to assist in the implementation of the sponsor's affirmative action program.

(8) Granting advance standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally.

(9) Admitting to apprenticeship, persons whose age exceeds the maximum age for admission to the program, where such action assists the sponsor in achieving its affirmative action obligations.

(10) Other appropriate action to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex (e.g., general publication of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority and female apprentices and journeypersons as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between the sponsor and employers of apprentices to ensure that employment opportunity is being granted, including reporting systems, on-site reviews, briefing sessions, etc.). The affirmative action program shall set forth the specific steps the sponsor intends to take, in the above areas, under this paragraph (c). Whenever special circumstances warrant, the Department may provide such financial or other assistance as it deems necessary to implement the above requirements.

(d) *Goals and timetables.* (1) A sponsor adopting a selection method under § 30.5(b) (1) or (2) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the admission of minority and/or female (minority and nonminority) applicants into the eligibility pool.

(2) A sponsor adopting a selection method under § 30.5(b) (3) or (4) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of the underutilization of minorities and/or women in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the selection of minority and female (minority and nonminority) applicants for the apprenticeship program.

(3) "Underutilization" as used in this paragraph refers to the situation where there are fewer minorities and/or women (minority and nonminority) in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subparagraphs (1) through (5) in paragraph (e) of this section. Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, where no goals and timetables are established, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established.

(4) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan or submits goals and timetables which are unac-

ceptable, and the Department determines that the sponsor has deficiencies in terms of underutilization of minorities or women (minority and nonminority) within the meaning of this section, the Department shall establish goals and timetables applicable to the sponsor for the admission of minority and female (minority and nonminority) applicants into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain these goals and timetables in accordance with the requirements of this section.

(e) *Analysis to determine if deficiencies exist.* The sponsor's determination as to whether goals and timetables shall be established, shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan.

(1) The size of the working age minority and female (minority and nonminority) population in the program sponsor's labor market area;

(2) The size of the minority and female (minority and nonminority) labor force in the program sponsor's labor market area;

(3) The percentage of minority and female (minority and nonminority) participation as apprentices in the particular craft as compared with the percentage of minorities and women (minority and nonminority) in the labor force in the program sponsor's labor market area;

(4) The percentage of minority and female (minority and nonminority) participation as journeypersons employed by the employer or employers participating in the program as compared with the percentage of minorities and women (minority and nonminority) in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and

(5) The general availability of minorities and women (minority and nonminority) with present or potential capacity for apprenticeship in the program sponsor's labor market area.

(f) *Establishment and attainment of goals and timetables.* The goals and timetables shall be established on the basis of the sponsor's analyses of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetables, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its "good faith efforts" shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals. However, in order to deal fairly with program sponsors, and with women who are entitled to protection under the goals and timetables requirements, during the first 12 months after the effective date of these regulations, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than 50 percent of the proportion women are of the workforce in the program sponsor's labor market area and set a percentage goal for women in each class beyond the entering class which is not less than the participation rate of women currently in the preceding class. At the end of the first 12 months after the effective date of these regulations, sponsors are expected to make appropriate adjustments in goal levels. See 29 CFR 30.8(b).

(g) *Data and information.* The Secretary of Labor, or a person or agency designated by the Secretary, shall make available to program sponsors data and information on minority and female (minority and nonminority) labor force characteristics for each Standard Metropolitan Statistical Area and for other special areas as appropriate.

§ 30.5 Selection of apprentices.

(a) *Obligations of sponsors.* In addition to the development of a written affirmative action plan to ensure that minorities and women have an equal opportunity for selection as apprentices and otherwise ensure the prompt achievement of full and equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following subparagraphs (1) through (4) of paragraph (b) of this section.

(b) *Selection methods.* The sponsor shall adopt one of the following methods for selecting apprentices:

(1) *Selection on basis of rank from pool of eligible applicants*—(i) *Selection.* A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subdivision (iii) of this subparagraph on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in Guidelines on Employee Selection Procedures published at 41 CFR Part 60-3.

(ii) *Requirements.* The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (vii) of this subparagraph.

(iii) *Creation of pool of eligibles.* A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age; or from applicants who meet qualification standards in addition to minimum legal working age: *Provided,* That any additional qualification standards conform with the following requirements:

(A) *Qualification standards.* The qualification standards, and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

(B) *Aptitude tests.* Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical relationships between the score on the aptitude tests required for admission to the pool, and performance in the apprenticeship program. In determining such relationship, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. The requirements of this subparagraph (B) shall also be applicable to aptitude tests utilized by a program sponsor which are administered by a state employment agency, or any other person, agency, or organization engaged in the selection or evaluation of personnel. A national test developed and administered by a na-

tional joint apprenticeship committee will not by approved by the Department unless such test meets the requirements of this subsection.

(C) *Educational attainments.* All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall meet the requirements of 41 CFR Part 60-3. School records or a passing grade on the general education development tests recognized by the State or local public instruction authority shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

(iv) *Oral interviews.* Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and prior to selection for apprenticeship from the pool, he or she may be required to submit to an oral interview. Oral interviews shall be limited to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions and the general nature of the applicant's answers, and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefor, and the appeal rights available to the applicant.

(v) *Notification of applicants.* All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant who is not selected for the pool or the program notice of his or her rejection, including the reasons for the rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant.

(vi) *Goals and timetables.* The sponsor shall establish where required by § 30.4(d), percentage goals and timetables for the admission of minorities and women (minority and nonminority) into the pool of eligibles, in accordance with the provisions of § 30.4 (d), (e), and (f).

(vii) *Compliance.* A sponsor shall be deemed to be in compliance with its commitments under subdivision (vi) of this subparagraph if it meets its goals or timetables or if it makes a good faith effort to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every "good faith effort" to meet its commitments (see § 30.4(f)). All the actions of the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made.

(2) *Random selection from pool of eligible applicants*—(i) *Selection.* A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the Department. Supervision of the random selection process shall be by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(ii) *Requirements.* The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (v) of subparagraph (1) of this paragraph relating to the creation of pool of eligibles, oral interviews, and notification of applicants.

(iii) *Goals and timetables.* The sponsor shall establish, where required by § 30.4(d), percentage goals and timetables for admission of minorities and women (minority and nonminority) into the pool of eligibles in accordance with the provisions of sections 30.4 (d), (e), and (f).

(iv) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(3) *Selection from pool of current employees*—(i) *Selection.* A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes, in accordance with the provisions of § 30.4 (d), (e), and (f) that it does not have deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the apprenticeship of journeyperson crafts represented by the program.

(ii) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(4) *Alternative selection methods*—(i) *Selection.* A sponsor may select apprentices by means of any other method including its present selection method: *Provided,* That the sponsor meets the following requirements:

(A) *Selection method and goals and timetables.* Within 90 days of the effective date of this amendment, the sponsor shall complete development of the revised selection method it proposes to use along with the rest of its written affirmative action program including, where required by § 30.4(d), its percentage goals and timetables for the selection of minority and/or female (minority and nonminority) applicants for apprenticeship and its written analysis, upon which such goals and timetables, or lack thereof, are based. The establishment of goals and timetables shall be in accordance with the provisions of § 30.4 (d), (e), and (f). The sponsor may not implement any such selection method until the Department has approved the selection method as meeting the requirements of item (B) of this subdivision and has approved the remainder of its affirmative action program including its goals and timetables. If the Department fails to act upon the selection method and the affirmative action program within 30 days of its submission, the sponsor then may implement the selection method.

(B) *Qualification standards.* Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. Where interviews are used, adequate records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgement. In applying any such standards, the sponsor shall meet the requirements of 41 CFR Part 60-3.

(ii) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivisions (vii) of subparagraph (1) of this paragraph (b). Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop and adopt an alter-

native selection method, including a method prescribed by the Department, where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard which has adversely affected the opportunities of minorities and/or women (minority and nonminority) for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with the provisions of subparagraph (1)(iii)(A) of this paragraph.

§ 30.6 Existing lists of eligibles and public notice.

A sponsor adopting a selection method under § 30.5(b) (1) or (2) and a sponsor adopting a selection method under § 30.5(b)(4) who determines that there are fewer minorities and/or women (minority and nonminority) on its existing lists of eligibles than would reasonably be expected in view of the analysis described in § 30.4(e) shall discard all existing eligibility lists upon adoption of the selection methods required by this part. New eligibility pools shall be established and lists of eligibility pools shall be posted at the sponsor's place of business. Sponsors shall establish a reasonable period of not less than 2 weeks for accepting applications for admission to an apprenticeship program. There shall be at least 30 days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see § 30.4(c) on affirmative action with respect to dissemination of information). Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of 2 years. Applicants may be removed from the list at an earlier date by their request or following their failure to respond to an apprentice job opportunity given by certified mail, return receipt requested. Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of the customs and practices of the industry for reporting for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of his or her current mailing address. Upon request, a sponsor may restore to the list of eligibles applicants who have been removed from the list or who have failed to respond to an apprenticeship job opportunity.

§ 30.7 [Reserved]

§ 30.8 Records.

(a) *Obligations of sponsors.* Each sponsor shall keep adequate records including a summary of the qualifications of each applicant, the basis for evaluation and for selection or rejection of each applicant, the records pertaining to interviews of applicants, the original application for each applicant, information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay, or other forms of compensation or conditions of work, hours including hours of work and, separately, hours of training provided, and any other records pertinent to a determination of compliance with these regulations, as may be required by the Department. The records pertaining to individual applicants, selected or rejected, shall be maintained in such manner as to permit identification of minority and female (minority and nonminority) participants.

(b) *Affirmative action plans.* Each sponsor must retain a statement of its affirmative action plan required by § 30.4 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analyses made pursuant to the requirements of § 30.4. Sponsors shall review their affirmative action plans annually and update them where necessary, including the goals and timetables.

(c) *Qualification standards.* Each sponsor must maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in § 30.5(b).

(d) *Records of State Apprenticeship Councils.* State Apprenticeship Councils shall keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations, and any other records pertinent to a determination of compliance with this part, as may be required by the Department, and shall report to the Department as may be required by the Department.

(e) *Maintenance of records.* The records required by this part and any other information relevant to compliance with these regulations shall be maintained for 5 years and made available upon request to the Department or other authorized representative.

§ 30.9 Compliance reviews.

(a) *Conduct of compliance reviews.* The Department will regularly conduct systematic reviews of apprenticeship programs in order to determine the extent to which sponsors are complying with these regulations and will also conduct compliance reviews when circumstances, including receipt of complaints not referred to a private review body pursuant to § 30.11(b)(i), so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this part. Compliance reviews will consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including onsite investigations and audits.

(b) *Reregistration.* Sponsors seeking reregistration shall be subject to a compliance review as described in paragraph (a) of this section by the Department as part of the reregistration process.

(c) *New registrations.* Sponsors seeking new registration shall be subject to a compliance review as described in paragraph (a) of this section by the Department as part of the registration process.

(d) *Voluntary compliance.* Where the compliance review indicates that the sponsor is not operating in accordance with this part, the Department shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under § 30.13. In the case of sponsors seeking new registration, the Department will provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes.

§ 30.10 Noncompliance with Federal and state equal opportunity requirements.

A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with Federal or state laws or regulations requiring equal opportunity may be grounds for the imposition of sanctions in accordance with § 30.13 if such noncompliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this part. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations.

§ 30.11 Complaint procedure.

(a) *Filing.* (1) Any apprentice or applicant for apprenticeship who believes that he or she has been discriminated against on the basis of race, color, religion, national origin, or sex with regard to apprenticeship or that the equal opportunity standards with respect to his or her selection have not been followed in the operation of an apprenticeship program may, personally or through an authorized representative, file a complaint with the Department, or, at the apprentice's or applicant's election, with a private review body established pursuant to subparagraph (3) of this paragraph. The complaint shall be in writing and shall be signed by the complainant. It must include the name, address and telephone number of the person allegedly discriminated against, the pro-

gram sponsor involved, and a brief description of the circumstances of the failure to apply the equal opportunity standards provided for in this part.

(2) The complaint must be filed not later than 180 days from the date of the alleged discrimination or specified failure to follow the equal opportunity standards; and, in the case of complaints filed directly with review bodies designated by program sponsors to review such complaints, any referral of such complaint by the complainant to the Department must occur within the time limitation stated above or 30 days from the final decision of such review body, whichever is later. The time may be extended by the Department for good cause shown.

(3) Sponsors are encouraged to establish fair, speedy, and effective procedures for a review body to consider complaints of failure to follow the equal opportunity standards. A private review body established by the program sponsor for this purpose should number three or more responsible persons from the community serving in this capacity without compensation. Members of the review body should not be directly associated with the administration of an apprenticeship program. Sponsors may join together in establishing a review body to serve the needs of programs within the community.

(b) *Processing of complaints.* (1)(i) When the sponsor has designated a review body for reviewing complaints, the Department, unless the complainant has indicated otherwise or unless the Department has determined that the review body will not effectively enforce the equal opportunity standards, shall upon receiving a complaint refer it to the review body.

(ii) The Department shall, within 30 days following the referral of a complaint to the review body, obtain reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily adjusted and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties appropriately informed.

(iii) When a complaint has not been resolved by the review body within 90 days or where, despite satisfactory resolution of the particular complaint by the review body, there is evidence that equal opportunity practices of the apprenticeship program are not in accordance with this part, the Department may conduct such compliance review as found necessary, and will take all necessary steps to resolve the complaint.

(2) Where no review body exists, the Department may conduct such compliance review as found necessary in order to determine the facts of the complaint, and obtain such other information relating to compliance with these regulations as the circumstances warrant.

(3) Sponsors shall provide written notice of the above complaint procedure to all applicants for apprenticeship and all apprentices.

§ 30.12 Adjustments in schedule for compliance review or complaint processing.

If, in the judgment of the Department, a particular situation warrants and requires special processing and either expedited or extended determination, it shall take the steps necessary to permit such determination if it finds that no person or party affected by such determination will be prejudiced by such special processing.

§ 30.13 Sanctions.

(a) Where the Department, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with this part and voluntary corrective action has not been taken by the program sponsor, the Department shall institute proceedings to deregister the program or it shall refer the matter to the Equal Employment Opportunity Commission or to the Attorney General with recommendations for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended, or to the Attorney General for other court action as authorized by law.

(b) Deregistration proceedings shall be conducted in accordance with the following procedures:

(1) The Department shall notify the sponsor, in writing, that a determination of reasonable cause has been made under paragraph (a) of this section and that the apprenticeship program may be deregistered unless, within 15 days of the receipt of the notice, the sponsor requests a hearing. The notification shall specify the facts on which the determination is based.

(2) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the sponsor mails a request for a hearing, the Secretary shall convene a hearing in accordance with § 30.16.

(3) The Secretary shall make a final decision on the basis of the record, which shall consist of the compliance review file and other evidence presented and, if a hearing was conducted pursuant to § 30.16, the proposed findings and recommended decision of the hearing officer. The Secretary may allow the sponsor a reasonable time to achieve voluntary corrective action. If the Secretary's decision is that the apprenticeship program is not operating in accordance with this part, the apprenticeship program shall be deregistered. In each case in which deregistration is ordered, the Secretary shall make public notice of the order and shall notify the sponsor and the complainant, if any.

§ 30.14 Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to this part may be reinstated upon presentation of adequate evidence to the Secretary that the apprenticeship program is operating in accordance with this part.

§ 30.15 State Apprenticeship Councils.

(a) *Adoption of consistent state plans.* (1) The Department shall encourage State Apprenticeship Councils to adopt and implement the requirements of this part.

(2) Within 60 days of the effective date of these regulations, each State Apprenticeship Council shall complete development of a revised equal opportunity plan which shall be consistent with this part. The revised State plan shall require all state apprenticeship programs registered with the State Apprenticeship Council to comply with the requirements of the revised State plan within 90 days of the effective date of these regulations. No State Apprenticeship Council shall continue to be recognized by the Department if it has not adopted within 60 days of the effective date of these regulations a plan implementing the requirements of this part.

(3) The Department retains authority to conduct compliance reviews and complaint investigations to determine whether the state plan or any state apprenticeship program registered with a State Apprenticeship Council is being administered or operated in accordance with this part.

(4) It shall be the responsibility of the State Apprenticeship Council to take the necesssary action to bring a noncomplying program into compliance with the state plan. In the event the State Apprenticeship Council fails to fulfill this responsibility, the Secretary may withdraw the recognition for Federal purposes of any or all state apprenticeship programs, in accordance with the procedures of deregistration of programs registered by the Department, or refer the matter to the Equal Employment Opportunity Commission or to the Attorney General with a recommendation for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended, or to the Attorney General for other court actions as authorized by law.

(5) Each State Apprenticeship Council shall notify the Department of any state apprenticeship program deregistered by it.

(6) Any state apprenticeship program deregistered by a State Apprenticeship Council for noncompliance with requirements of this part may,

within 15 days of the receipt of a notice of deregistration, appeal to the Department to set aside the determination of the State Apprenticeship Council. The Department shall make its determination on the basis of the record. The Department may grant the state program sponsor, the State Apprenticeship Council and the complainant(s), if any, the opportunity to present oral or written argument.

(b) *Withdrawal of recognition.* (1) Whenever the Department determines that reasonable cause exists to believe that State Apprenticeship Council has not adopted or implemented a plan in accordance with the equal opportunity requirements of this part, it shall give notice to such State Apprenticeship Council and to appropriate state sponsors of this determination, stating specifically wherein the state's plan fails to meet such requirements and that the Department proposes to withdraw recognition for Federal purposes, from the State Apprenticeship Council unless within 15 days of the receipt of the notice, the State Apprenticeship Council complies with the provisions of this part or mails a request for a hearing to the Secretary.

(2) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the State Apprenticeship Council neither complies with the provisions of this part, nor mails a request for a hearing, the Secretary shall notify the State Apprenticeship Council of the withdrawal of recognition.

(3) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the State Apprenticeship Council mails a request for a hearing, the Secretary shall proceed in accordance with §30.16.

(4) If a hearing is conducted in accordance with §30.16, the Secretary upon receipt of the proposed findings and recommended decision of the hearing officer shall make a final decision whether the State Apprenticeship Council has adopted or implemented a plan in accordance with the equal opportunity requirements of this part.

(5) If the Secretary determines to withdraw recognition, for Federal purposes, from the State Apprenticeship Council, the Secretary shall notify the State Apprenticeship Council of this determination. The Secretary shall also notify the State sponsors that within 30 days of the receipt of the notice the Department shall cease to recognize, for Federal purposes, each State apprenticeship program unless the State program sponsor requests registration with the Department. Such registration may be granted contingent upon finding that the State apprenticeship program is operating in accordance with the requirements of this part.

(6) A State Apprenticeship Council whose recognition has been withdrawn pursuant to this part may have its recognition reinstated upon presentation of adequate evidence to the Secretary that it has adopted and implemented a plan carrying out the equal opportunity requirements of this part.

§30.16 Hearings.

(a) Within 10 days after receiving a request for a hearing, the Secretary shall designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by certified mail, return receipt requested, to the appropriate sponsor (Federal or state registered), the State Apprenticeship Council, or both, as the case may be. Such notice shall include (1) a reasonable time and place of hearing, (2) a statement of the provisions of this part, pursuant to which the hearing is to be held, and (3) a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

(b) The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel, and a fair opportunity to present his or her case including such cross-examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Secretary upon the basis of the record before them.

§30.17 Intimidatory or retaliatory acts.

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person for the purpose of interfering with any right or privilege secured by Title VII of the Civil Rights Act of 1964, as amended, Executive Order 11246, as amended, or because he or she has made a complaint, testified, assisted, or participated in any manner in any investigation proceeding, or hearing under this part shall be considered noncompliance with the equal opportunity standards of this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising therefrom.

§30.18 Nondiscrimination.

The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, or sex.

§30.19 Exemptions.

Request for exemption from these regulations, or any part thereof, shall be made in writing to the Secretary and shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause. State Apprenticeship Councils shall notify the Department of any such exemptions granted affecting a substantial number of employers and the reasons therefor.

[FR Doc. 78-13064 Filed 5-11-78; 8:45 am]

federal register

FRIDAY, MAY 12, 1978
PART V

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

■

INDUSTRIAL HYDROCARBONS AND ALCOHOLS

Pilot Projects

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1480]

INDUSTRIAL HYDROCARBONS AND ALCOHOLS

Pilot Projects

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: Section 1420 of the Food and Agriculture Act of 1977 (Pub. L. 95-113) directs the Secretary of Agriculture "to provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans not to exceed $15,000,000 per each project to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender."

The proposed regulations would provide policies and procedures for submission and evaluation of definitive proposals for the pilot projects which will be solicited simultaneously with the issuance of the final regulations.

Generally, the proposed regulations provide priorities and criteria which the Secretary will apply in determinations regarding approval of a Federal guaranty. They provide illustrations of information to be developed by the borrower and the lender and supplied to the Secretary, including especially a detailed description of the project planned to be undertaken by the borrower and an affirmation by the lender supporting the necessity for a Federal guaranty. The regulations, in addition, contain illustrations of costs which the borrower can include, when applicable, in arriving at the total project cost. Illustrations of costs not allowed to be included in project costs are also provided.

DATES: Written comments on the proposed regulations must be received by June 12, 1978, 4:30 p.m. Public hearings on the proposed regulations will be held as follows: May 26, 1978, 9:30 a.m., Washington, D.C.; June 1, 1978, 9:30 a.m., St. Louis, Mo.; June 3, 1978, Spokane, Wash.

ADDRESSES: The hearing locations are: Washington, D.C. hearing will be held at Jefferson Auditorium, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C. 20250; St. Louis, Mo. hearing will be held at Holiday Inn North, 4545 North Lindbergh, St. Louis, Mo.; Spokane, Wash. hearing will be held at Isabella Room, Davenport Hotel, West 807 Sprague Avenue, Spokane, Wash.

Written comments and requests to speak at one of the hearings should be directed to Mr. Harry Brown, Office of Energy, Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Harry Brown, Office of Energy, Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C. 20250, 202-447-4515.

SUPPLEMENTARY INFORMATION: It is expected that, by minimizing the financial risk usually associated with new unique industrial processes or technologies, the Federal loan guarantees which may be made pursuant to final regulations (issued after receipt and consideration of comments upon these proposed regulations) will increase and accelerate the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

For the most effective implementation of the statute, the phrase "agricultural commodities and forest products" has been construed as not being limited to the more commonly recognized products from farms and forests, like grain and timber, but in the broadest sense as embracing all forms of farm and forest crops, vegetation byproducts and residues. For that reason, as well as brevity of reference, the proposed regulations equate the phrase with the term "biomass." "Biomass" includes for example, such diverse materials as the grain and stalks of corn, wheat, and rice; cottonseed hulls; fruits and vegetables and their processing byproducts and residues; poultry and livestock manures and residues; wood products including bark, pulp, chips and residues from logging and paper manufacturing; aquatic plants; specific energy plantation crops; and peat.

To achieve the goals of the statute, the Secretary wishes to receive many proposals employing diverse and innovative technologies and utilizing a wide variety of biomass materials.

In the interest of furthering the production of industrial hydrocarbons and alcohols from biomass, the Government would reduce the possible risk to lenders. These regulations would provide a Government guarantee in full for loans covering up to 90 percent of the cost of the approved projects, but such loan guarantees are not to exceed $15 million per project. As a further incentive toward expanding biomass use for energy purposes, there will be no user charge associated with these Federal loan guarantees.

COMMENT PROCEDURES:

A. Written Comments

Participation in this rulemaking is invited by submitting views, data, or arguments with respect to the proposed regulations set forth in this Notice. Written comments should be submitted to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside with the designation "Proposed Regulations—Industrial Hydrocarbons and Alcohols." Five copies should be submitted. All comments received by June 12, 1978, and all relevant information will be considered before final action is taken on the proposed regulations. All written comments received will be available for public inspection and photocopying in Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Information or data believed to be confidential, must be so identified and submitted in writing, one copy only. The Secretary reserves the right to determine the confidential status of the information or data and to treat it accordingly.

B. Public Hearings

1. Purpose. The purpose of the public hearings is to provide an opportunity for broad public consideration of the proposed regulations. It will be particularly desirable to have discussion of the types and diversity of operations possible within the regions represented by each of the hearings and the factors that must be considered in regard to the energy efficiency and the economic feasibility of such operations. Some examples of topics that may be addressed in the hearing statements are as follows:

(a) Full range of possible feedstocks that could be used under the law for producing alcohols and hydrocarbons;

(b) Economic feasibility of producing alcohols and hydrocarbons from agricultural commodities and forest products. These discussions should consider economic feasibility not only in terms of requirements for a loan guaranty but also in terms of local, regional, national, and international economic implications.

(c) Energy efficiency implications, not only in manufacturing processes but from the standpoint of entire systems of production, processing, marketing, and use.

2. Requesting Opportunity for Oral Statement. The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this Notice. Material not presented orally may be submitted for the record.

A request to make an oral presentation at a hearing should be received not later than two days before the hearing by Mr. Harry Brown at the aforementioned address. Persons making such requests should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presenta-

tion and a phone number where he or she may be contacted through the day before the hearing. Fifteen copies of the presentation should be provided to the presiding officer at the hearing.

3. Conduct of the Hearings. USDA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons who have asked to be heard.

The hearings will be conducted under the auspices of the Office of Energy, USDA, and a USDA official will preside at each of the hearings. These will not be judicial or evidentiary-type hearings. Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained and made available for inspection at the USDA, Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C., between the hours of 9 a.m. and 4 p.m., Monday through Friday.

On October 20, 1977, Notice was published in the FEDERAL REGISTER (42 FR 55904) requesting preliminary submissions of tentative project descriptions to assist the Department in the preparation of regulations for the evaluation of formal proposals for loan guarantees of the four pilot projects. Responses to that Notice (as extended to April 15, 1978, by 43 FR 3146) have been helpful in the drafting of these proposed regulations.

In consideration of the foregoing, the regulations set forth below are proposed to be included in Subchapter B of Chapter XIV, Title 7 of the Code of Federal Regulations as Part 1480.

PART 1480—INDUSTRIAL HYDROCARBONS AND ALCOHOLS PILOT PROJECTS

Sec.

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Appendix B.

AUTHORITY: Sec. 1420, Pub. L. 95-113, 91 Stat. 998 (7 U.S.C. 2669).

§ 1480.1 General.

Section 1420 of the Food and Agriculture Act of 1977, Pub. L. 95-113, (the Act) authorizes the Secretary of Agriculture (the Secretary) to initiate a pilot program for the production and marketing of industrial hydrocarbons from agricultural commodities and forest products. In the Act, "the Secretary is authorized and directed to formulate and carryout a pilot program for the production and marketing of industrial hydrocarbons derived from agricultural commodities and forest products for the purpose of stabilizing and expanding the market for such commodities and products and expanding the Nation's supply of industrial hydrocarbons." The Act also states that "the Secretary shall provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans not to exceed $15,000,000 per each such project, to public, private or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender." This section and the following sections of part 1480 of this Subchapter constitute regulations for submitting, evaluating, selecting, and approving applications for guaranteed loans under the Act. Project proposals conforming to the Act and these regulations will be considered by a panel of experts which will advise the Secretary concerning selection of pilot projects for loan guaranty under the Act.

§ 1480.2 Project description format.

Applications shall use the following project description format:

(a) Project title: Title should be descriptive and brief.

(b) Date of submission:

(c) Organization: The official name and address of the proposing organization.

(d) Responsible officer: The name and address of the official of the organization responsible for the project.

(e) Designated contact official: The name, address and telephone number of the official working contact for the proposing organization.

(f) Lender: Name and address of lending agency.

(g) Qualifications of proposer: Personal qualifications data of key personnel of proposer.

(h) Objectives of project: The objectives should establish specific pilot project goals of production, timing, information development, and followup.

(i) Justification (in terms of act): Statement showing how the project would address purposes of section 1420 of the Food and Agriculture Act of 1977.

(j) Raw materials and source area: Statement should describe the raw materials availability, sources and alternatives and describe the assembly process.

(k) Process and flow diagrams: Statement should contain a stepwise description of processing, production, storage and transport.

(l) Products and byproducts, uses and markets: Statement should list products, yields and their alternative uses and markets.

(m) Flexibility of raw material and products: Statement showing opportunities for using alternative raw materials and products in order to enhance economic return and energy output.

(n) Plant location, sites: Describe, anticipated plant location and auxiliary sites and the respective advantages of these locations.

(o) Facilities and equipment: Describe proposed plant, facilities, equipment, and marketing arrangements.

(p) Employment: List numbers and categories of employees and expected payroll.

(q) Construction and on-stream timetable: Tabulation or chart showing timetables for project construction, production start-up and sales progress.

(r) Amount of loan guarantee requested: Loans requested and percentage of total cost of project.

(s) Economic feasibility study:

(1) Capital costs: Tabulation and description of investments, loans and repayment of capital.

(2) Operating costs: Tabulation and descriptions of operating expenses related to output.

(3) Product output and value: Tabulation of production, sales and returns.

(4) Cost evaluation, economic information: Cost summary to provide evidence of the payment time and economic viability.

(t) External cooperators: Identification of assistance groups (i.e., Federal, State, local, etc.).

§ 1480.3 Definitions and other requirements.

(a) "Project" means an undertaking by the borrower which when completed will result in the production of industrial hydrocarbons and/or alcohols from biomass and otherwise conform to the requirements of these regulations, and Pub. L. 95-113, section 1420.

(b) The industrial hydrocarbons and alcohols must be produced from "agricultural commodities and forest products." For the most effective implementation of the statute, the phrase "agricultural commodities and forest products" has been construed in the broadest sense as all forms of farm crops, vegetation, and residues. For that reason, as well as brevity of reference, the regulations equate the phrase with the term "biomass". "Biomass" includes, for example, such diverse materials as the grain and stalks of corn, wheat, and rice; cottonseed hulls; fruits and vegetables and their processing byproducts and residues; poultry and livestock manures and residues; wood products including bark, pulp, chips, and residues from logging and paper manufacturing; aquatic plants; specific energy plantation crops; and peat.

(c) An industrial hydrocarbon may chemically contain no more than 5 percent other constituents that are chemically reacted with the carbon and/or hydrogen atom and are a part of the molecule.

(d) Alcohols are a class of compounds which are hydroxyl derivations of hydrocarbons. Alcohols in these regulation may contain no more than 5 percent other constituents chemically bound to the alcohol molecule.

(e) Industrial hydrocarbons and alcohols in these regulations are primarily intended for non-food and non-feed uses such as direct fuels or industrial energy raw materials.

(f) The alcohol must be one of the major products in projects identified as alcohol processing units.

(g) Total energy content of the products and byproducts manufactured in the operation must exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts.

(h) Fossil fuels include coal, natural gas and petroleum. Gas and fuels produced from grains, agricultural byproducts and residues, wood and wood products, peat and related materials are not considered fossil fuels.

§ 1480.4 Environmental considerations.

(a) Applicant must present adequate environmental impact information. For a proposed project being actively considered for a loan guaranty, an environmental assessment will be prepared by the responsible Federal official and utilized to determine the environmental consequences of the proposed project.

(1) If, as a result of the above assessment, the Secretary determines that undertaking the proposed project will have a significant effect on the quality of the human environment, an environmental statement in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 will be prepared and issued by the responsible Federal official.

(b) If the Secretary determines that undertaking the proposed project will not have a significant effect on the quality of the human environment, a negative determination will be prepared prior to final action on the guaranty application.

(c) Nothing in this regulation shall be construed to modify requirements imposed on the borrower or lender by Federal, State and local government agencies in connection with permits, licenses, or other authorization to conduct or finance these activities.

§ 1480.5 Trade secrets.

Subject to requirements of law and these regulations, trade secrets, commercial and financial information and data (including maps) which the borrower makes available to the Secretary during the preliminary discussion or at any other time throughout the duration of the project on a privileged or confidential basis, will be so treated and will not be publicly disclosed without the prior written approval of the borrower. In order to assist in carrying out this provision, information deemed by the borrower or lender to fall within one of the foregoing categories shall be identified and appropriately marked by the borrower or the lender.

§ 1480.6 Evaluation criteria.

(a) Proposed projects must meet the criteria of the Act and of these regulations, including but not limited to: (1) Total energy content of the products and byproducts manufactured in the operation must exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts; (2) The operation as a whole is designed to demonstrate economic feasibility; (3) The technology used in the operation is potentially applicable at other locations on a regional or national scale.

(b) Additional criteria will also be considered, for example, criteria for evaluation of projects may include but not be limited to the following: Stabilization and expansion of the market for agricultural commodities and forest products; expansion of the Nation's supply of industrial hydrocarbons and alcohols; reduction of requirements for fossil fuels in production, conversion, marketing and utilization of biomass for alcohols and hydrocarbons; demonstration and utilization of new technological advances; provision for diversity of feedstocks, conversion processes, products and byproducts; minimal environmental impact.

§ 1480.7 Project monitoring and reports.

(a) The guaranty agreement shall provide that employees and representatives of USDA shall have access to the project site. To the extent lawful and within their control, the lender and borrower will assure availability of such information related to the project as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guaranty.

(b) An annual progress report on each pilot project, not to exceed 12 pages, will be required from the borrower. The annual reports will be organized around the objectives, the installations, the processes, the production goals, and timetables. The annual reports will be due on September 30 of each fiscal year of the project.

(c) A comprehensive report covering all findings, accomplishments, and cost evaluations will be prepared at the end of the first 5 years. The purpose of this report will be to obtain fullest definitive information on the economic and technical feasibility of larger-scale application of the processes tested in the pilot project. The comprehensive report will use the following format:

Title page
Foreward
Abstract
Tables and figures
Definitions, abbreviations, symbols
Acknowledgements
Chapters:

1. Introduction
2. Findings and conclusions
3. Recommendations
4. Raw Materials, process and products
5. Marketing and utilization
6. Financing and cost analysis
7. Economic analysis and feasibility of scale-UP

Appendices

§ 1480.8 Patent and proprietary rights.

(a) Patents and other proprietary rights accruing to the borrower and resulting from the project will remain with the borrower, except that such rights shall be, in the case of default, treated as project assets in accordance with terms and conditions in the guaranty agreement.

(b) The guaranty agreement may provide that patents or other proprietary intellectual property rights utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available to other domestic parties upon reasonable terms and conditions which protect the confidentially of information, if such action is determined by the Secretary to be in the public interest.

§ 1480.9 Loan guaranty criteria.

(a) The Secretary may enter into agreements to guaranty lenders against the loss of principal and accrued interest on loans made by such lenders to qualified borrowers. Such agreements can be entered into only for the purposes of design, construction, and operation of equipment or facilities for the production of industrial hydrocarbons and alcohols from biomass.

(b) A loan application which meets a lender's standard without a Federal guaranty will be regarded by the Secretary as not eligible for a loan guaranty under this regulation. No loan shall be guaranteed if the income from such loan or the income from obligations issued by the holder of such loan is excluded from gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1954.

(c) A guaranty may be made only if the following conditions are met as determined by the Secretary:

(1) The amount of a guaranty for any loan for a Project does not exceed $15,000,000.

(2) The guaranty as to principal shall apply only to so much of the principal amount of the loan as does not exceed 90 percent of the estimated aggregate cost of the Project with respect to which the loan is made. However, there is no prohibition against

the guaranty being equal to 100 percent of the loan to be made by the lender.

(3) The lender has set forth reasons why the loan would not be made to the borrower without a Federal loan guaranty.

(4) The terms of the loan require full repayment over a period of no more than twenty years.

(5) The loan bears interest at a rate agreed upon by the borrower and lender and approved by the Secretary.

(6) The Project is to be performed in the United States, its territories or possessions, or on property owned or leased by the United States outside the United States, its territories or possession.

(7) The terms and conditions set forth in the loan agreement are acceptable to the Secretary.

(8) The borrower and any non-guaranteed lender agree in writing that (i) the terms and conditions set forth in a non-guaranteed loan agreement relating to the Project shall be acceptable to the Secretary and (ii) the non-guaranteed loan shall be subordinate to the guaranteed loan.

§ 1480.10 Supporting loan guaranty information.

(a) The lender and borrower shall provide information in support of the application such as described by the following items:

(1) Full description of the scope, nature, extent and location of the proposed Project.

(2) A written affirmation by the lender supporting the necessity for a Federal loan guaranty.

(3) Evidence supporting the borrower's ability to complete the Project in a timely and efficient manner.

(4) Agreed upon interest rate to be charged by the lender.

(5) Period of repayment not to exceed 20 years and amount of the loan and the percent of the Project cost to be guaranteed.

(6) A detailed budget-type breakdown of both the estimated aggregate cost of the Project and the amount to be borrowed.

(7) Evidence showing that the amount of the loan together with equity or other financing will be sufficient to carry out the Project.

(8) The borrower's plan to pay interest charges and repay the loan, including assumptions regarding marketability of the Project's results or product.

(9) The aggregate amount of guaranty commitments and/or guaranteed loans outstanding made to the borrower under the provisions of this regulation.

(10) Where relevant to the purpose of the loan guaranty, a copy of the borrower's title or lease agreement to the property, supported by title opinion or other locally acceptable evidence of the borrower's interest, on which the Project is to be carried out.

(11) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the Project.

(12) A description of the borrower's management concept and business plan or plan of operations to be employed in carrying out the Project.

(13) A description of the Project's technical and economic feasibility.

(14) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, or factoring) together with evidence of a commitment from these sources and a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment.

(15) A copy of the loan agreement to be executed by the lender and borrower.

(16) A listing of assets associated or to be associated with the Project, including appropriate data as to the useful life of any physical asset, and any other security for the loan and guaranty agreement.

(17) A description of other Federal financial assistance (e.g., direct loans, guaranteed loans, grants, contracts) available or expected to be made available to the borrower in connection with the Project.

(18) A description of the processes and methods the borrower plans to utilize.

(19) Copies of all applications when filed, and approvals when issued by Federal, State and local government agencies, for permits and authorizations to conduct operations associated with the Project.

(20) A description of the borrower's organization and a copy of the business certificate, partnership agreement or corporate charter, by laws and appropriate authorizing resolutions.

(21) The lender's written assessment of all aspects of the borrower's loan application in sufficient detail as would be completed by any prudent lender considering a loan without a guaranty together with copies of investigations from credit bureaus, references, bank inquiries, and professional organizations.

(22) Written assurance from guaranteed and, when appropriate to the Project, non-guaranteed lenders that the loan amounts as well as terms and conditions imposed by such lenders will not be altered in any significant respect without approval of the Secretary.

(23) A description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and employees of the borrower that are, or will be, directly associated with the Project.

(24) Evidence of consultation conducted by the borrower with appropriate agencies of any affected State regarding the proposed Project.

(b) In addition to supporting information illustrated in paragraph (a) of this section, the Secretary may independently obtain or may require the lender to include with the guaranty application the filing of information regarding the lender as deemed necessary by the Secretary including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions demonstrating the lender's competence to administer loan terms and conditions.

(2) Copies of investigations obtained from credit bureaus, reference and bank inquiries, and professional associations.

(3) Descriptions covering the management experience of each officer or key person in the lender's organization who is or will be associated with the loan.

(4) A description of the management concept to be employed by the lender in surveillance of the loan.

(5) When appropriate to the Project, evidence of the lender's experience in surveying the financial aspects of complex technological projects.

(c) The Secretary shall consider the application and other relevant information and shall be responsible for (1) determining whether the application is in compliance with this regulation; (2) assessing and evaluating the financial, technical, environmental, management, and marketing aspects of the Project. The Secretary will provide the borrower and lender with a written statement setting forth the basis for the nonapproval of an application.

§ 1480.11 Closing.

The major activities leading to the closing of the guaranty agreement include the following:

(a) When an application for a loan guaranty has been approved by the Secretary, the Secretary will so notify the lender and the borrower and provide them with a copy of the proposed guaranty agreement.

(b) The Secretary shall arrange with the lender and the borrower for the preparation and review of necessary documents and agree upon a date for execution of a guaranty agreement.

§ 1480.12 Loan disbursements by lender.

Unless otherwise provided in the guaranty agreement, the lender shall not make any disbursement on the loan until it has followed notification requirements as set forth in Appendix B, section (c)(1), and has received written notice from the Secretary that disbursement is approved.

§ 1480.13 Preservation of collateral.

Unless otherwise provided in the loan guaranty documents, upon default by the borrower, the holder of collateral associated with project shall take actions such as the Secretary may reasonably require to provide for the care, preservation, and mainte-

nance of such collateral so as to achieve maximum recovery upon liquidation of collateral, security and guarantees for the loan. The lender shall not waive or relinquish, without the consent of the Secretary any collateral or guaranty for the loan to which the Government would be subrogated upon payment under the guaranty agreement to the lender.

§ 1480.14 Security with respect to borrower's assets.

Each loan guaranteed under this regulation will be secured by liens or assignments of rights in assets associated with the project, or such other security specified in the guaranty agreement as the Secretary may determine to be reasonably required to protect the interests of the United States.

§ 1480.15 Treatment of payments.

When the lender holds a guaranteed and non-guaranteed portion of a loan, payments of principal made by the borrower in accordance with the loan agreement shall be applied by the lender to reduce the guaranteed and non-guaranteed portion of the loan on a proportionate basis.

§ 1480.16 Assignment and incontestability.

(a) Except as may be required by law, the lender may assign to another lender rights and obligations under the loan or guaranty agreement only with the prior written consent of the Secretary.

(b) The lender may provide other lenders with participating shares in the loan without the prior consent of the Secretary. Written notice shall be given by the lender to the Secretary and the borrower when participating shares are so provided. However, the original lender shall continue to be responsible for and perform the provisions of the guaranty agreement pertaining to the lender, unless the Secretary approves a substitute lender.

(c) The guaranty agreement shall be conclusive evidence that the guaranty and the underlying loan are in compliance with the provisions of Pub. L. 95-113, section 1420, and this regulation and that such loan has been approved and is legal as to principal and interest and other terms. Such a guaranty shall be valid and incontestable by the Government except for fraud or misrepresentation by the holder of the obligation.

§ 1480.17 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973 (Pub. L. 92-234) may require purchase by the borrower of flood insurance as a condition of receiving a guaranty on loans for acquisition or construction purposes in an identified flood plain area having special flood hazards.

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement as amended under Exective Order 11821 and OMB Circular A-107.

Dated: May 6, 1978.

BOB BERGLAND,
Secretary.

APPENDIX A—PROJECT COST ILLUSTRATIONS.

(a) The cost elements set forth in paragraphs (b) and (c) of this section are only for the purpose of illustrating the manner by which the estimated aggregate cost of the Project can be determined. It is expected that Project costs will be accumulated in accordance with generally accepted accounting principles and practices which are consistently applied.

(b) Except as set forth in paragraph (c) of this section, reasonable and customary costs paid by the borrower that are directly connected to the Project are generally permitted in computing the estimated aggregate Project cost. These costs include, but are not limited to the folowing:

(1) Employee's salaries and wages, consultant fees, and other outside assistance.

(2) Land purchase or lease payments including reasonable real estate commissions.

(3) Engineering fees, surveys, plats, title insurance, recording fees, and local fees incurred in connection with land acquisition.

(4) Site improvements, site restoration and abandonment costs, access roads and fencing.

(5) Buildings, transmission lines, power plant equipment, and machinery.

(6) Taxes to be paid to Federal, State, and local government agencies and other taxing authorities.

(7) Insurance and bonds of all types.

(8) Engineering, architectural, and legal fees paid in connection with equipment selection, design, acquisition, and installation.

(9) Research and development necessary to complete the Project.

(10) Professional services and fees necessary to obtain licenses and permits and to prepare environmental reports and data.

(11) Interest costs charged by the lender.

(12) Interest payments to other lenders.

(13) Costs incurred by the borrower prior to approval of the guaranty agreement that are directly in connection with the project.

(14) Technical and socio-economic information dissemination costs.

(15) Costs to provide safety and environmental protection equipment, facilities, and services.

(16) Travel and transportation costs.

(17) Bond financing costs and trustee fees.

(18) Fees for royalties and licenses.

(19) Costs associated with acquiring technical data.

(20) Financial and legal service cost.

(21) Costs to comply with terms and conditions specified in the guaranty agreement or required by regulations and issuances by Federal, State, and local government agencies.

(22) A contingency reserve.

(c) Costs which are not considered as Project costs and are excluded from the guaranteed portion of the loan are illustrated below:

(1) Company organizational expenses.

(2) Parent corporation general and administrative expenses and other parent corporation assessments.

(3) Dividends and profit sharing to stockholders, employees, and officers.

(4) Goodwill, franchises, or trade or brand name costs.

(5) Fees and commissions charged to the borrower for obtaining loans and Federal assistance.

(6) Loan commitment fees charged by lenders and finders' fees.

(7) Expenses not paid or incurred by the borrower.

(8) Normal operating expenses incurred after an initial period of start-up.

(9) Costs that are excessive or are not directly required to carry out the Project.

(d) The Secretary may cause to be performed a review of any or all cost elements included by the borrower in the estimated aggregate Project cost. The borrower shall make available records and other data necessary to permit the Secretary to carry out such review. In carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

(e) When costs incurred prior to the approval of the guaranty agreement, as provided in paragraph (b)(13) of this section, are included in the estimated aggregate Project cost, the borrower will make available to auditors selected by the Secretary financial and other records necessary to complete an audit of such costs if requested.

APPENDIX B—LOAN SERVICING BY LENDER

Loan guaranty agreements approved in accordance with this regulation shall provide that:

(a) The lender shall exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be excercised by a reasonable and prudent lender in dealing with a loan without guaranty.

(b) The loan agreement shall provide the customary period of grace for the making of any payment of principal or interest. However, the lender shall not grant to the borrower any further extension of time over and above any period of grace for the making of any payment in whole or in part under the loan agreement without the prior written consent of the Secretary.

(c) The lender shall notify the Secretary in writing without delay:

(1) That the first disbursement is ready to be made, together with evidence from the borrower that the Project has commenced or is about to commence.

(2) At monthly, or at other agreed upon intervals, of the date and amount of each subsequent disbursement under the loan.

(3) Of any non-payment by the borrower of principal or interest as required by the loan agreement, if such non-payment is not cured within the grace period, together with evidence of appropriate notifications made by the lender to the borrower.

(4) Of any failure, known to the lender, by an intended source of capital to honor its commitment.

(5) Of any failure by the borrower, known to the lender, to comply with terms and conditions as set forth in the loan agreement or guaranty agreement.

(6) When the lender believes that the borrower may not be able to meet any future scheduled payment of principal or interest.

(d) In the event the lender retains the option to accelerate payment of the borrower's indebtedness, the lender shall not do so without the prior written consent of the Secretary.

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